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#11

# CONDITIONS FOR WOMEN IN DETENTION IN THE PHILIPPINES

Needs, vulnerabilities and good practices

Jo Baker and DIGNITY

**DIGNITY**  
DANISH  
INSTITUTE  
AGAINST TORTURE



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# Executive Summary

***“Being a woman is damaged. Your sense of female identity is damaged.”***

What are the particular needs, issues, risks and vulnerabilities that face imprisoned women across the world? What challenges and promising practices are common in their management? And where do these practices fall in relation to international standards? These questions lie at the heart of DIGNITY’s research into conditions for women in detention in four countries – of which this Philippines country study is one part.<sup>1</sup>

The management of women in the Philippines’ vast and fragmented penal system demonstrates a broad spectrum of approaches. In some smaller, provincial facilities women are reportedly detained with minimal or no attention to their human rights or particular needs, including the right to be held separately from male inmates, causing strong concern for their safety and wellbeing. In other women-only prisons and pre-trial facilities, visited by DIGNITY in 2013, close attention is given to inmates’ welfare, and good practices can be found for other resource-constrained countries – particularly in the management of visits and the use of structured activity to keep inmates active and motivated.

In speaking to detainees (as summarized in the section, What Matters Most), DIGNITY has been able to understand the critical importance of ties to the outside world, particularly to children and lawyers, of dignified spaces in which to meet visitors, and of opportunities to take on responsibility, and stay busy. We have been told of the acute need for gender-sensitive healthcare, particularly in areas of reproductive and sexual health, and for survivors of gender-based violence, and substance abusers. Women have spoken of gendered risks and dangers that they face while in detention, including sexual exploitation,

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<sup>1</sup> DIGNITY’s research among women’s prisons and prison communities in five countries – Albania, Guatemala, Jordan, the Philippines and Zambia – has been published as a comparative qualitative study, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014 (available at [http://www.dignityinstitute.org/media/1991156/wid\\_final\\_0814\\_web.pdf](http://www.dignityinstitute.org/media/1991156/wid_final_0814_web.pdf)), and as four individual country studies for Albania, Jordan, the Philippines and Zambia.

mental health risks and harmful forms of misinformation. They have also shared their experiences of abandonment and stigma, which many believe are experienced differently and disproportionately by women.

Yet in only one of the country's penal systems, the Bureau of Corrections (BuCor), is the operational approach gender responsive – and comprehensively so. A series of operational guidelines circulated among staff of the Correctional Institute for Women in 2013 has integrated the recently elaborated United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) into the management of the prisons.<sup>2</sup> This has ensured that a broad range of measures respond to the special needs and common histories of women, both generally and as members of particular groups, to help protect their rights and ensure their wellbeing. These measures include the development of alternative screening methods to strip searches and invasive body searches, and the recognition that disciplinary sanctions for inmates must never include a prohibition of family contact, especially with children. They ensure that a portion of inmates' earnings are placed in a savings fund to be made available on release, and include the development of strategies to provide gender-specific and individualized psychosocial and psychiatric support, and prevent suicide and self-harm. The memorandum also commendably requires that: "The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it," and urges flexibility and assistance for visiting friends and relatives, where needed. In order to ensure that these commendable guidelines offer effective and sustainable protection for BuCor detainees, the next step must be to make them legally binding.

Meanwhile, as welfare programmes and guidelines are being championed and developed across this vast penal network, and steps to centralize its procedures are taken, the chance to mainstream gender in policy, operational guidelines and trainings is being missed. As the number of female detainees continues to grow, it is critical that their needs and human rights are adequately reflected in these processes, in accordance with international standards. Given the positive practices found in visits to both BuCor and the Bureau of Jail Management and Penology (BJMP) facilities, it is clear that coordination and lesson sharing between staff across these systems could go a long way in achieving this.

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<sup>2</sup> UN Doc. A/RES/65/229, 16 March 2011, available at: <http://www.un.org/en/ecosoc/docs/2010/res%202010-16.pdf>

## Recommendations

For the Philippines to align with international standards on conditions for detention of women, this study has highlighted a number of key recommendations:

### Law and policy

- Amend the national **laws, policies and regulations** that govern the rights of inmates in detention so that they adequately protect the human rights of women, in line with the Bangkok Rules and other international standards on detention;
- Ensure that these amendments are comprehensively reflected in the **national budget, and the strategies, operational manuals and internal policies** of all relevant bureaus and detention facilities, including the Philippine National Police and the Drug Enforcement Agency;
- Amend the legal framework to include **alternatives to imprisonment** for women offenders, as required by the Bangkok Rules, given the generally lower risk posed by women prisoners to others, as well as the disproportionate impact of high security measures and increased isolation on women, and their children. Ensure that judges' are sensitized to the existence of and need for such alternatives;
- Train and appoint gender-sensitive managers of women's prisons, and provide comprehensive core and follow-up **training** for staff in all related bureaus and agencies on gender issues and women's human rights, communication and dynamic security approaches;
- Carefully consider, in the construction of new detention facilities and the **allocation** of prisoners, of the need for women prisoners to be close to their home or place of social rehabilitation, taking account of their caretaking responsibilities, and the availability of appropriate programmes and services; and
- Pay particular and urgent attention in law, policy and practice, to the rights and needs of **especially vulnerable groups** among women in detention. These may include older and disabled women, pregnant women and new mothers, and women from ethnic, religious and sexual minorities.

## Conditions of detention

- Ensure that **infrastructure** for the detention of women meets international standards generally, and meets standards on women's special needs specifically, with *inter alia*, conditions that are safe and healthy; sufficient space and facilities for comprehensive vocational, recreation and work programmes; separate and adequate facilities for mothers with infants; and visiting facilities that allow space, privacy, dignity and physical contact;
- On **admission**, ensure that thorough screenings take place by medical and social welfare professionals, which in particular, identify mental health care needs, including post-traumatic stress disorder and risk of suicide and self-harm; forms of violence that may have been suffered prior to admission; and economic and social needs, in order to integrate these into rehabilitative programmes and services that match detainees' gender-specific needs;
- Amend the potentially harmful practice of prolonged and close confinement of inmates on **admission** so that the procedure conforms to human rights standards, particularly regarding frequent contact with family and children on the outside;
- Ensure that **basic items** required for human dignity, including sanitary towels, cleaning materials, warm water and items for babies and children accommodated in the prison, are provided in sufficient quantity and for free by the State, in accordance with its State responsibility;
- Ensure that all prisons are managed in line with international standards on **gender-specific safety and security and the prohibition of torture and cruel, inhuman and degrading treatment or punishment**, which *inter alia*, prohibit the banning of visits between mothers and their families, and demands the careful separation of female inmates from male inmates and staff. In particular, urgently implement basic safeguards for women in provincial jails, where they are at greater risk of rape, sexual abuse and other forms of gendered torture; and in BJMP facilities, end the use of excessive confinement practices as punishment, and effectively prohibit contact and sexual relationships between male staff and female inmates;
- Sufficiently equip and staff institutions to meet the **health needs** of women detainees and accompanying children, including pre-and post-natal requirements (such as nutrition, medical and psychological care), reproductive and sexual healthcare, mental health and trauma counselling, and health education. Ensure that these respond to the particular backgrounds common to women in the Philippines, such as histories of gender-based violence, risk of HIV, and substance abuse;

- To overcome **gendered barriers to information and complaint**, ensure that detainees are comprehensively briefed on their rights and options, and the rules and regime of the facility, and that information is available in forms that they are able to understand and easily access throughout their time in detention. Ensure that all inmates are aware of and able to access their right to send confidential complaints to State bodies and independent institutions;
- Establish a system for the **employment and equitable remuneration** of detainees; and ensure that women have equal access and opportunities to all trades and areas of work that they are physically suited for;
- Support, fund and train more **gender-sensitive welfare officers**, who are able to provide individualised support, counselling, and information to inmates, and connect them with needed programmes and services. Empower and enable these officers to pay particular attention to the needs of vulnerable groups among female inmates;
- Allow detainees to be accommodated with **babies and young children** in safe and separate facilities, while protecting their right to a balanced and comprehensive programme of activities, and preventing their potentially harmful isolation from others;
- Continue to ensure a positive, humane contact and **outreach regime**, in line with the Bangkok Rules, by allowing longer and more frequent visits with babies and young children (overnight where possible), and implementing a programme of conjugal visits that is equal to that enjoyed by male detainees; and
- Work towards the creation of **individualised and rehabilitative gender-sensitive treatment** plans for each detainee from the time of admission. This should include the mainstreaming of gender into the operation and manual of the Therapeutic Community Modality Program (TCMP), and other welfare plans and programmes.

## Selected Abbreviations

BJMP	Bureau of Jail Management and Penology
BuCor	Bureau of Corrections
CAT	UN Committee against Torture
CEDAW	UN Committee on the Elimination of Discrimination against Women
CHR	Philippines' Commission on Human Rights
CIW	Correctional Institute for Women in Manila
CPT	European Committee for the Prevention of Torture
DOJ	Department of Justice
DILG	Department of the Interior and Local Government
DSWD	Department of Social Welfare and Development
DIGNITY	DIGNITY – Danish Institute against Torture
GDP	General Directorate of Prisons of the Philippines
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IWD	Inmates Welfare and Development
NGO	Non-Governmental Organisation
NPM	National Preventive Mechanism
OHCHR	Office of the UN High Commissioner for Human Rights
OPCAT	Optional Protocol to the Convention against Torture
RA	Republic Act
SMRs	Standard Minimum Rules for the Treatment of Prisoners
SPT	UN Subcommittee on Prevention of Torture
SRT	UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
SRVAW	UN Special Rapporteur on Violence against Women, its Causes and Consequences
TCMP	Therapeutic Community Modality Program
UN	United Nations
UNCAT	UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNCED	International Convention for the Protection of All Persons from Enforced Disappearance
UNCEDAW	UN Convention on the Elimination of All Forms of Discrimination against Women
UNCRC	UN Convention on the Rights of the Child
UNHRC	UN Human Rights Committee
UNODC	UN Office on Drugs and Crime
WHO	World Health Organisation

## Introduction

While all human beings are vulnerable when deprived of their liberty, certain groups are at particular risk of abuse and other human rights violations. Women in detention constitute one such group. For women, the discrimination that they face in broader society reaches deep into places of detention, such as prisons, which are largely still designed and managed for men, by men. As a minority – although a growing one in many countries – detained women are often overlooked, at the expense of their dignity, wellbeing and their fundamental human rights. As now well established in international law, women's specific needs also require different and sometimes greater attention in order for women to enjoy their rights equally to men. As established in the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),<sup>3</sup> there are concrete ways in which this must be done.

This study seeks to generate an understanding of the particular needs and vulnerabilities of women in detention in the Philippines, to identify 'what matters' most to them – where the impact of detention mostly lies – and to document positive and negative practices in relation to international standards.

The study consists of two parts. Part one presents the *context* of prisons and pre-trial detention centres in the Philippines – including facts and figures, the legal and institutional framework, and recent reforms and developments – with focus on the extent to which women are included or excluded in these. Part two outlines the *findings* by firstly summarizing the conditions that, according to the detained women interviewed, impact them most. Secondly, it presents the findings on conditions and practices based on visits to one prison and three pre-trial detention centres for women, along with the experiences and reflections of current and former inmates. The section on conditions is divided into seven thematic sections, structured around categories identified by the Bangkok Rules: admission and classification, physical and material conditions, safety and security, healthcare, information and complaints, contact with the outside world, and work, education and recreation. All quotes, unless specified, are from women detainees or former detainees.

It is hoped that the findings in this study will provide insight into the needs, vulnerabilities and rights of a long-neglected group in the Philippines, and impetus for change.

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<sup>3</sup> United Nations Rules for the Treatment of Female Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules) Un Doc. E/RES/2010/16, 16 March 2011, available at <http://www.un.org/en/ecosoc/docs/2010/res%202010-16.pdf>

For a more detailed understanding of the gendered issues and forms of discrimination encountered by women in detention across the world, and the related international standards, please refer to the main study: *Women in Detention: Needs, Vulnerabilities and Good Practices* (referred to in this report as Main Study).<sup>4</sup> In this study, published in 2014, DIGNITY uses the same thematic structure to examine and compare the spectrum of experiences of detained women across five countries, including the Philippines, to better understand the impact that these issues have. Under each theme, the study firstly presents the international human rights standards relative to women in detention. Secondly, it analyses the jurisprudence of four key United Nations Treaty Bodies across six years (2008-13) so as to establish to what extent it reflects the relevant international human rights standards. Thirdly, the lived experiences of the women in detention – including common needs, challenges and rights violations – are explored, theme by theme, and portrayed on the basis of answers to the question ‘what matters most’, along with negative and positive practices encountered in their management. Finally, the study highlights the most common gaps in protection that women in detention encounter across the world, and gives recommendations for gender sensitive reform.

## Methodology

This country study bases its findings on an observational visit to the Philippines’ main women’s prison and three pre-trial detention facilities for women in September 2013; on private, semi-structured in-depth interviews among detainees; and on meetings and structured interviews with prison staff, and others working in and around prison communities in the country – 44 persons in total. The desk review was updated in December 2014, and includes a review of national legislation, policy and procedure in relation to the country’s international human rights obligations, on the basis of research and reporting from the UN human rights machinery, NGOs, the national human rights institution, and academics.

The facilities visited are the Correctional Institute for Women (CIW) in the capital city, Manila, operated by the BuCor; and Quezon City Jail Female Dorm, Mandaluyong City Jail and Davao City Female Jail operated by the BJMP (the first two located in Manila and the latter in Mindanao, in the Muslim-majority south of the country).

Research for this study has applied a mixed-methods approach. Firstly, we have partially applied a *human rights-based methodology* ordinarily used for *detention monitoring*, founded on the standards set by the core international human rights treaties and soft

<sup>4</sup> *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014, available at [http://www.dignityinstitute.org/media/1991156/wid\\_final\\_0814\\_web.pdf](http://www.dignityinstitute.org/media/1991156/wid_final_0814_web.pdf)

law. A number of these are particularly relevant to the situation of detention for women. These include the norms and standards on non-discrimination, to allow the experiences of women specifically to be identified and analysed,<sup>5</sup> and UN standards specific to detention. In particular, we have referenced the Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules, or SMRs) of 1957,<sup>6</sup> under revision as the Mandela Rules<sup>7</sup>, and the Bangkok Rules, adopted by the General Assembly in 2010 to address the particular needs and rights of detained women (for more detail on the international legal framework, see Main Study).

Secondly, and in parallel, this study builds substantially on *qualitative research* methodologies, with a focus on life stories and narrative interviewing. This is a more immersive and subjective approach, and it provides the opportunity for informants to share their own personal story and experiences, and hereby express what matters most to them.

Each inmate interview session began with semi-structured interviews based on interview guides, to allow the issues and experiences that matter most to the subject to arise naturally. The more structured set of human rights-based questions on prison conditions – drawn from international standards – were woven into the latter half of the interviews.

Interviews with former detainees were conducted in private, and confidentiality has been ensured. No informants have had their names revealed to authorities or anyone outside the research team, unless agreed with the informant, e.g. when a case was referred to legal

<sup>5</sup> Non-discrimination and equality of rights for women is well established as a fundamental principle of international law, starting with the preamble to the UN Charter, and the basic principle of non-discrimination on grounds of sex is prescribed in several conventions, among them ICCPR Article 3 and ICESCR Article 3. However, a full working understanding of discrimination against women has developed in both hard and soft law. Of particular importance is CEDAW, which pioneered the understanding of non-discrimination as any “distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women” of their human rights and fundamental (Art. 1). CEDAW also provides the legal basis for special measures being taken to ensure de facto equality between men and women, including policies and practices that make up for practical disadvantages faced by women prisoners (Art. 4). The same principles are reflected in Principle 5 (2) of the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment.

<sup>6</sup> Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

<sup>7</sup> The proposed revision of the SMRs (Mandela Rules) were adopted by the UN Commission on Crime Prevention and Criminal Justice (24<sup>th</sup> session, May 2015), E/CN.15/2015/L.6/Rev.1, available at: [http://www.unodc.org/documents/commissions/CCPCJ/CCPCJ\\_Sessions/CCPCJ\\_24/resolutions/L6\\_Rev1/ECN152015\\_L6Rev1\\_e\\_V1503585.pdf](http://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_24/resolutions/L6_Rev1/ECN152015_L6Rev1_e_V1503585.pdf). The final version of the revised SMRs (Mandela Rules) is to be adopted by the UN General Assembly.

aid services. All persons interviewed provided their informed consent. In recognition of the fact that many prisoners experience psychological crisis and trauma and/or physical and social stress, researchers used an interviewing technique developed for torture survivors to complement the life story approach. This aims to protect inmates from re-activating trauma, whilst at the same time gaining access to potentially painful, yet important information.

In consulting those who work with imprisoned women, which includes NGO staff, prison officers and lawyers, DIGNITY used structured and semi-structured human rights-based interview guides. As noted above, researchers were also able to informally tour and observe most areas of the prison during the visit, but a full monitoring procedure was not followed. We have had no reason to doubt the information provided by the informants. Nevertheless, it has not been possible to exhaustively triangulate the validity and reliability of all information on general conditions of imprisonment, such as availability of food.

### Terminology

The terms 'prisoner', 'detainee' and 'inmate' are used interchangeably to denominate any person who is deprived of her liberty, including individual women detained in jails awaiting arraignment, trial or sentencing; and those who have been convicted and are serving a prison sentence. The terms 'pre-trial detainee' or 'remandee' refer to persons who are detained in custody before and during trial.

# National Context

## Facts and figures

There are over a thousand places of detention in the Philippines,<sup>8</sup> and these fall under a host of different government departments,<sup>9</sup> with a lack of centralized data, and varying operating procedures, standards, levels of professionalism and training. This makes the overall situation of detainees challenging to regulate consistently, monitor and assess.

However, it is known that women make up about 8% of a rapidly growing prison population in a system that is well beyond its capacity.<sup>10</sup> The majority of sentenced female prisoners, around 2,200 at the time of the visit, are detained in Manila's Correctional Institute for Women (CIW),<sup>11</sup> governed by the Bureau of Corrections (BuCor) under the Department of Justice. The prison has a capacity of 1,000 prisoners.<sup>12</sup> A few hundred convicted women are also imprisoned in a Mindanao-based BuCor facility.

The Bureau of Jail Management and Penology (BJMP) holds adult women who are awaiting trial and those sentenced to imprisonment of three years or less, in 49 female dormitories among 459 total district and city district jails.<sup>13</sup> Approximately 6,600 detained women were awaiting trial during DIGNITY's visit in November 2013, and 150 were convicted; but according to figures obtained from the BJMP in January 2015 this total figure has since risen to 8,035. Facilities are understaffed. For example, according to information provided

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<sup>8</sup> The Philippines is an archipelago with over 7,000 islands and 96 million people, and is classified as a low-middle income country by the World Bank. It has 7 national prisons and 1,130 city, district, municipal and provincial jails.

<sup>9</sup> See Institutional Framework, below.

<sup>10</sup> The system recorded 110,925 prisoners and detainees in 2013, hugely surpassing the official capacity of 35,000 inmates. See Institute of Prison Studies, *World Prison Brief: The Philippines*, accessed January 2015.

<sup>11</sup> This was according to the director of the CIW in May 2013, but reported figures for 2014 are higher, at 2,343.

<sup>12</sup> Bernadette Baquilod Alvor, Mildred, *The Philippine Corrections System: Current Situation and Issues*, 2005

<sup>13</sup> A district jail is a cluster of small jails, each having a monthly average population of ten or fewer inmates, and is located in the vicinity of the court. Where the imposable penalty for the crime committed is more than six months and the crime was committed within the municipality, the offender must serve his or her sentence in the provincial jail, under the Office of the Governor. Where the penalty imposed exceeds three years, the offender shall serve his or her sentence in the penal institutions of the BuCor. See Bernadette Baquilod Alvor, Mildred, *The Philippine Corrections System: Current Situation and Issues*, 2005.

by the Philippines' Commission on Human Rights (CHR), the average BJMP staff-inmate ratio in July 2013 was 1:46.

Some provincial jails and police cells are manned by the Philippine National Police (PNP), rather than the BJMP, and these reportedly detain a few handfuls of women at any one time.<sup>14</sup>

As noted in the figures above, almost 60% of detained women are in remand detention. Despite the 1998 Speedy Trial Act, the average trial takes more than three years.<sup>15</sup> DIGNITY met with women who had been detained for more than six years while waiting for their trials on drugs charges.

Statistics from the Correctional Institute in Manila in 2013 help to draw tentative conclusions about the profiles of women detainees in the Philippines.<sup>16</sup> Firstly, the **majority of women are in prison for non-violent crimes**: under 10% of detainees in the CIW were convicted for crimes against persons, and fewer than 3% were convicted for crimes against personal liberty, such as kidnapping or crimes against national security. The **vast majority were charged with crimes related to drugs** (51.8%) or property (35%). The **majority were middle-aged**, with 61% of women between 40-59 years old.<sup>17</sup> In terms of their occupations, many were **primarily traders and business women** (18%) or **jobless** (15%), with other dominant jobs including work as vendors (12%), housewives (6%), and housekeepers or caretakers (6%). **Most women were educated**: approximately 40% had reached (though not necessarily graduated) high school and 30% had attended college, while approximately 20% had only attended elementary school, and fewer than 2% were illiterate. **Most were married or common law partners** at around 52%, while 24% were single and the rest were separated or widowed (divorce being largely illegal in the Philippines).<sup>18</sup> Finally, statistics revealed that more **than 60% of inmates come from communities located outside of the national capital region**, and many live relatively far away from the prison. For example 125 women lived as far as the Zamboanga, Davao, Northern Mindanao, Cotabato and Caraga regions which lie somewhere between 1,200 and 1,700 km from Manila.

While data was not available on other important characteristics of female inmates, research has established commonalities among this group across the world, at least some of which are likely to apply. These include a disproportionate experience of mental disorders, a high

<sup>14</sup> This is out of approximately 800 detainees in total. BJMP, *Jail Population Data Table*, July 2013.

<sup>15</sup> JDI et al. See also British Embassy Manila, *Information For British Nationals Arrested And Imprisoned In The Philippines*, 2015.

<sup>16</sup> Bureau of Corrections, *Monthly Inmate Inventory Report: CIW*, October 1-31 2013.

<sup>17</sup> Less than one percent were aged between 19 and 21; 25% were between 22 and 39; and almost 13% were aged 60 and above. The age of nine women (0.41%) was unknown.

<sup>18</sup> Foreign Policy, *The Last Country in the World Where Divorce Is Illegal*, 19 Jan 2015.

level of drug or alcohol dependence, histories of sexual and physical abuse and violence before prison, and primary responsibility for children and other family members.<sup>19</sup> Further deductions can be made using the status of women in the country generally. Nevertheless, targeted research into the profiles of this group in the Philippines, combined with the findings below, would be an important step in designing informed and effective rehabilitation, treatment and reintegration programmes for them, in line with the Bangkok Rules.

## The status of women in the Philippines

The Philippines is party to all core treaties to protect women's human rights and ranks highly in the Global Gender Gap Index of the World Economic Forum. It comes ninth out of 138 countries, and has made significant strides in recent years in the areas of economic participation and opportunity; education and employment; empowerment and decision-making; and health and life-expectancy.<sup>20</sup> Simple and functional literacy rates are higher among women, compared to men.<sup>21</sup> However this doesn't translate into the job market or the political sphere, in which women are underrepresented,<sup>22</sup> and underpaid.<sup>23</sup>

Various disadvantageous gender norms also remain strong and entrenched, and although women outside of Muslim and indigenous communities are accorded the same rights as men in many areas, this is not always the case in practice; those women living under Muslim and indigenous women customary or personal laws tend to face much greater restrictions.<sup>24</sup> In a study that revealed the extent of discriminatory barriers

<sup>19</sup> United Nations Office on Drugs and Crime & World Health Organisation (UNODC & WHO), *Women's health in prison: Correcting gender inequity in prison health*, 2009.

<sup>20</sup> World Economic Forum, *Global Gender Gap Report: The Philippines*, accessed January 2015.

<sup>21</sup> GMA Network, *The status of women in the Philippines: a 50-year retrospective*, Lila Ramos Shahani, 3 October 2012.

<sup>22</sup> Following the 2012 mid-term elections, six women served in the 24-seat Senate and 79 women in the 289-seat House of Representatives; there were six women in the 32-member cabinet, and three of 15 Supreme Court justices, including the chief justice, were women, as were 17 of 80 provincial governors and 321 of 1,633 mayors. US State Department, *2013 Human Rights Report: Philippines*.

<sup>23</sup> No law mandates non-discrimination based on gender in hiring practices, and women in the labour force reportedly earned 37 to 47 percent less than men. See US State Department, *2013 Human Rights Report: Philippines*, 2013.

<sup>24</sup> In Muslim and indigenous communities, property ownership law or tradition grants married males more property ownership rights than married females. US State Department, *2013 Human Rights Report: Philippines*, 2013. Although all laws must conform to the 1987 Constitution, which contains a gender equality provision, in 1977, a Code of Muslim Personal Laws (CMPL) was enacted under the Marcos regime in certain Muslim provinces of the Philippines. Read more in Solamo-Antonio, Isabelita, *Dossier 27: The Shari'a courts in the Philippines: Women, men and Muslim personal laws*, December 2005.

to justice for women in the Philippines, findings indicated gender insensitivity in the legal system and its actors, stigmatization and re-victimization, economic and cultural barriers, and impunity enjoyed by the perpetrators of the acts of violence against women.<sup>25</sup> Gender-based violence is pervasive,<sup>26</sup> and under-reported.<sup>27</sup> Despite the passage of various women-friendly laws in recent years, particularly those addressing violence against women,<sup>28</sup> effective enforcement of these laws is lagging.<sup>29</sup>

## Legal and institutional framework

Under Philippine national law, regional law and international human rights law, prisoners retain their human rights and fundamental freedoms, except for those restrictions necessitated by the incarceration. These include the right to humane treatment and respect for their inherent dignity as human beings.

### International framework

The Philippines has ratified all of the core international human rights treaties, including the UN Convention on the Elimination of All Forms of Discrimination Against Women (UNCEDAW); the UN Convention Against Torture and Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT); and the Optional Protocol to the UNCAT (OPCAT), under which it

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<sup>25</sup> The women's access to justice (ATJ) study was borne out of the Women's Legal and Human Rights Bureau's 2010 research on Mapping of Domestic Legal Remedies on Violence against Women. See more in Women's Legal and Human Rights Bureau, *Unveiling Justice: Women's Access to Justice in the Philippines*, May 2012

<sup>26</sup> According to a National Demographic and Health Survey in 2008, 20% or one in five women aged 15-49 experienced physical violence since age 15, and 8.7% aged the same have experience sexual violence; both of these and other forms of VAW committed by intimate partners. Women's Legal and Human Rights Bureau, *Unveiling Justice: Women's Access to Justice in the Philippines*, May 2012.

<sup>27</sup> For example, according to a National Demographic and Health Survey in 2008 among VAWG survivors, 12% reported to the police; 9% went to social workers; and only 2% sought the help of doctor/medical personnel. UN Country Team, *Compilation Prepared By The UNCT In The Philippines Universal Periodic Review*, May 2012

<sup>28</sup> Republic Act (R.A.) 8353 or the Anti-Rape Law of 1997 redefined rape from a private to a public offense and expanded its scope to include rape by sexual assault. R.A. 9208 or The Anti-Human Trafficking in Persons law passed in 2003, penalizes trafficking with emphasis that the same may be committed with or without the victim's consent or knowledge. In 2004, R.A. 9262, the Violence against Women and their Children (VAWC) Act was passed into law, penalizing acts of violence committed by husbands and intimate partners. And most recently, in 2009, R.A. 7610 or the Magna Carta of Women has been passed by the Philippine legislature.

<sup>29</sup> Women's Legal and Human Rights Bureau, *Unveiling Justice: Women's Access to Justice in the Philippines*, May 2012.

is the process of establishing a National Preventive Mechanism (NPM). The NPM will have the mandate to conduct regular visits to all places of detention in order to strengthen the protection against torture and other inhuman or degrading treatment or punishment. The Philippines has accepted the competence of the Human Rights Committee (Optional Protocol to the ICCPR), and the CEDAW Committee (Optional Protocol to CEDAW) to consider individual complaints. The Philippines has also accepted the inquiry procedures of CAT and CEDAW. Article II and Section II of the Constitution of the Philippines adopts the generally accepted principles of international law into domestic law.

### Institutional framework

As noted above, the penal system in the Philippines is largely fragmented, with varying operating procedures and standards.<sup>30</sup> Efforts to standardize and centralize these in some places show promise, but have been slow and piecemeal.<sup>31</sup> The advent in the coming year or two of the NPM may lead to some improvements in this regard.

The system is made up of three major government functionaries: the Department of Justice (DOJ), Department of the Interior and Local Government (DILG) and the Department of Social Welfare and Development (DSWD). The DOJ supervises the national penitentiaries through the BuCor; administers the parole and probation system through the Parole and Probation Administration; and assists the President in the grant of executive clemency through the Board of Pardons and Parole.<sup>32</sup> The DILG supervises the provincial, district, city and municipal jails through the provincial governments and the BJMP.<sup>33</sup> Those under the provincial government are run by the police. The DSWD supervises the regional rehabilitation centres for youth offenders through the Bureau of Child and Youth Welfare.<sup>34</sup> Places of detention are also run by the Department of National Defence, the Drug Enforcement Agency (DEA), and the Bureau of Immigration.

Other government human rights bodies relevant to detainees include the Philippines' Commission of Human Rights (CHR), which is constitutionally mandated to protect and promote human rights; investigate all human rights violations, including those against

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<sup>30</sup> Just Detention International (JDI) et al., *Joint Civil Society Report on torture and other cruel, inhuman or degrading treatment or punishment in the Philippines* (2009).

<sup>31</sup> In recent years there have been efforts to bring the provincial police-operated jails under the operation of the BJMP via a Memorandum of Understanding (with a law pending on the standardization of jails), which is a positive step that will allow for a measure of professionalism and oversight, for the benefit of prisoner welfare. However without legal force, this is a slow process, still resisted in some provinces. In January 2015 there were several pending bills at the House of Representatives to address these matters, needing to be consolidated.

<sup>32</sup> Bernadette Baquilod Alvor, Mildred, *The Philippine Corrections System: Current Situation and Issues*, 2005.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

women;<sup>35</sup> and monitor government compliance with international human rights treaty obligations. However, the CHR remains an institutionally weak body facing numerous challenges, particularly resourcing.<sup>36</sup> The Office of the Ombudsman is an independent agency with jurisdiction to handle complaints regarding all public officials and employees, including prison authorities, although national actors report that most cases are handled internally with administrative penalties.<sup>37</sup>

### Domestic legal framework

All penal institutions are governed by the 1987 Constitution. Among other rights, the Bill of Rights (Article II) guarantees respect for human dignity; due process of law; the presumption of innocence; protection from torture and inhuman treatment for all persons; and equality between men and women. Article II also provides for the protection of persons deprived of their personal liberty and circumstances under which personal liberty may be suspended. This includes the right to reasonable bail,<sup>38</sup> and the application of *habeas corpus* – except under charges of rebellion. Human rights guarantees for detainees, along with provisions on the management, treatment and care of inmates in places of detention are also found in other laws such as the Anti-Torture Act of 2009, the Juvenile Justice and Welfare Act of 2006. Aside from these, the BuCor and the BJMP are governed by separate laws on their mandate and organizational structures, and separate manuals for operations.

The BJMP was founded pursuant to Chapter IV of the Republic Act No. 6975 of 1990<sup>39</sup> that mandates it with the direction, supervision and control of the administration and operation of all district, city and municipal jails. In practice, as noted above, the BJMP still shares its responsibilities with the national police, although this was intended as a temporary and short term arrangement.<sup>40</sup> Section 63 of the Act provides for the immediate rehabilitation of individuals or detention of prisoners, and guarantees the respect and protection of the human rights and spiritual and physical wellbeing of prisoners. The provisions are very brief, and are gender neutral.

The BJMP Operations Manual (Book II of the BJMP Manual) governs all facilities, and all areas of operation, from commitment and classification to the release of inmates. While prisoners are referred to consistently as he/she, the document gives little attention to the

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<sup>35</sup> As provided for by the Magna Carta of Women (Republic Act No. 9710).

<sup>36</sup> UN Country Team, *Compilation Prepared By The UNCT In The Philippines' Universal Periodic Review*, May 2012.

<sup>37</sup> Interview with Balay staff.

<sup>38</sup> Except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong (Section 13).

<sup>39</sup> This is also known as the Department of the Interior and Local Government Act of 1990.

<sup>40</sup> As per the Department of the Interior and Local Government Act of 1990. Bernadette Baquilod Alvor, Mildred, *The Philippine Corrections System: Current Situation and Issues*, 2005.

special needs and human rights of women, and classifies women among inmates with special needs, rather than a group in their own right.

Among the provisions, under Rule II, it bans any disciplinary punishments of pregnant or breastfeeding women.<sup>41</sup> A small section (Section 2) under Rule III on the Treatment of Inmates with Special Needs provides for the strict separation of male and female quarters; the prohibition of male inmates from female quarters; and provides that female personnel in larger jails may be designated to keep the keys to female quarters and make these available at any time. It also ensures that only work “suitable to their age and physical condition” shall be assigned to female inmates.

Among the neglected areas are comprehensive measures to protect women from gendered-abuse at the hands of male staff (including the accompaniment of male staff by female officers), and from degrading treatment; and measures to identify and treat gender-specific health needs, particularly during admissions processes and among pregnant women and new mothers – and particularly regarding the disproportionate exposure of detained women to gender-based violence prior to detention.<sup>42</sup> The documents do not provide for women’s specific hygiene needs, or their needs to remain closely connected with family and children, and do not protect the equal right of women to work, and gain skills training to help them on release into society. (For a thorough review of gender-sensitive provisions in international law, see DIGNITY’s Main Study).<sup>43</sup> However, the manual is currently and promisingly under review, and some of these gaps may therefore be filled to some extent.<sup>44</sup>

DIGNITY has also been able to obtain a copy of a BJMP memorandum issued in 2010, entitled Policy on Pregnant Inmates and their Infants, which governs the treatment of pregnant inmates, women who just gave birth, and infants whose mothers are detained in a BJMP jail. It is not clear to what extent this is circulated and implemented – no BJMP personnel referenced the policy during interviews – and this requires further investigation. The memorandum also operates in a context which regrettably allows babies to stay with their mother in jail for just one month, unless special permission is obtained. One absent provision in the policy is Bangkok Rule 42.2 on child care facilities and relevant programmes.

However, the document is otherwise comprehensive in its detail and commendably appears to have been drawn directly from the Bangkok Rules, with some amendments.

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<sup>41</sup> BJMP, *Treatment of Inmates with Special Needs*, Rule III, Book II.

<sup>42</sup> In the context of the State’s duty to provide legal assistance, support and rehabilitation for such persons under international law.

<sup>43</sup> DIGNITY, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014, [http://www.dignityinstitute.org/media/1991156/wid\\_final\\_0814\\_web.pdf](http://www.dignityinstitute.org/media/1991156/wid_final_0814_web.pdf)

<sup>44</sup> See section on reforms and development, below.

Its provisions for this group include the need for a separate room/cell; the prohibition of disciplinary segregation; an allowance for visits by an infant in the days after separation from the mother (only during visiting hours); and a special diet and dietary advice (subject to the approved meal budget). Pregnant inmates must receive regular check-ups, and provisions must be made to ensure a hospital birth, without instruments of restraint during labour, delivery and immediately after the birth (but with such instruments permissible during transport if necessary – which, if taking place during labour, contravenes the Bangkok Rules), and must be provided with medical services that the jail can offer at its infirmary. The provision on hygiene stipulates, in the language of the Bangkok Rules, that ‘at least a regular supply of water’ for personal care be provided, but without obligation for warm water or soap.

It is important to note that this memorandum and the operations manual above are not issued with legislative authority and do not go through the same rigorous process of amendment, and therefore do not amount to protection under the law. To ensure effective and sustainable protection of this group, these and other guidelines must now be drafted into law and policy.

The BuCor took its original mandate – the rehabilitation of national prisoners serving sentences of three years or more – from Book IV of Executive Order No. 292.<sup>45</sup> It promisingly strengthened this aim in 2013 when the President signed Republic Act No. 10575, which replaced an almost 100-year-old prison act.<sup>46</sup> The new law aims to modernize the country’s correctional system, and the BuCor institution, and to further protect the basic rights of inmates according to international standards. This includes providing for an increase in staff; a raise in staff salaries; and a strengthening of training programmes under the Department of Justice. The document is gender neutral except for Sec. 17, which obliges promotions to be based on merit, and equal opportunity for women personnel. This Act led to the formulation and launch of the BuCor’s Implementing Rules & Regulations (IRR) of RA 10575 that are not yet available for analysis, and that had notably not been made available to some BuCor staff during a follow up visit to the CIW in February 2015.

However, the BuCor has a better record in addressing the needs and rights of women in its operating procedures and regulations. Although the BuCor manual is not gender sensitive, in 2013, the CIW Superintendent at the time, Rachel Ruelo issued, to all women’s correctional facility staff, a Revised Memorandum on Reintegration of Rehabilitation Programs and Prison Rules and Regulations for a Gender-Sensitive Prison Management [Annex 1]. Superintendent Ruelo was herself an expert participant in the UN process that formulated

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<sup>45</sup> Sec. 26, Chap. 8, Title III. This is known as the “Administrative Code of 1987”) and was a consolidation of House Bill 6887 and Senate Bill 3335.

<sup>46</sup> An Act Strengthening the Bureau of Corrections and Providing Funds Therefore into Law, also known as the Bureau of Corrections Act of 2013.

the Bangkok Rules. The memorandum guidelines integrate these standards thoroughly into the management of the prison, along with additional measures to enhance the wellbeing of female detainees. These commendable guidelines are also the basis of regular internal meetings and trainings at the CIW. The memorandum obliges:

- Recognition of the different needs of women;
- Capacity and willingness by prison staff to communicate openly with inmates and in a less authoritarian manner;
- Skills of prison staff, such as active listening, patience in explaining rules and expectations;
- Awareness of emotional dynamics, and the capacity to respond firmly, fairly and consistently; and
- Recognition of the different needs of female prisoners, including those from different cultural backgrounds, and provision of programmes and services that address these needs.

The memorandum also provides seven pages of operational guidelines, based on the Bangkok Rules.<sup>47</sup> The guidelines well recognize and respond to the needs and histories that are particular to detained women. These include the development of alternative screening methods to strip searches and invasive body searches, in order to avoid harmful psychological and possible physical impact; and the recognition that disciplinary sanctions for inmates must never include a prohibition of family contact, especially with children. The guidelines, which include the development of strategies to provide gender-specific and individualized psychosocial and psychiatric support, ensure that part of inmates’ earnings are set aside as savings by the administration to be made available to the inmate on release. The memorandum also commendably requires that: “The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it”. It also urges flexibility and assistance for visiting friends and relatives, where needed. Gaps are few, but include a lack of elaboration on the obligation regarding gender-sensitive programmes for HIV/AIDS and substance abuse.

These would serve as excellent guidelines for other institutions that detain women, and their circulation is recommended [Annex I]. However, it is important to note again that these guidelines are not issued by the legislative authority and have not been adopted through the same rigorous process of amendment. Thus, the guidelines do not entail enforceable protection under the law. Although the Superintendent is no longer directing the CIW (as of 2014), it is important to ensure that these guidelines remain an integral part of its operation under the management of a gender-sensitive director, and that they will be written into law and policy.

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<sup>47</sup> The areas covered include protection of inmates against any form of sexual harassment; physical and mental abuse; body search of inmates; restraints; disciplinary actions; inmates’ activities and programs; healthcare; rights to counsel or lawyer’s visit; contact with the outside world; and preparation for release and post-release support.

## Recent reforms, developments and challenges

### Challenges

The Philippines' penal system as a whole faces many challenges, particularly in terms of resourcing; understaffing;<sup>48</sup> overcrowding;<sup>49</sup> fragmentation;<sup>50</sup> a lack of comprehensive and consistent rehabilitative programmes; and the high number of persons in lengthy remand.<sup>51</sup> Regarding the latter, the Republic Act 10592 of 2013 was passed with a view to ending excessive periods of pre-trial detention; reducing congestion; and releasing those who have been detained pre-trial for the time equivalent to the length of the sentence with which they are charged. Yet according to officers, this has yet to be implemented, and without a computerized system the law's implementation poses a challenge. Areas of concern, which are regularly raised by human rights bodies, also include the use of torture and ill treatment and sub-standard facilities or even a lack of basic facilities.<sup>52</sup>

Torture takes place in prisons and pre-trial detention facilities<sup>53</sup> and is particularly entrenched and systematic in police jails and military detention.<sup>54</sup> In the smaller provincial jails, accountability and adherence to human rights standards are reported to be particularly low, and are of urgent concern.<sup>55</sup>

While provincial jails fell outside the scope of our qualitative research, it is nevertheless important to highlight the lack of basic safeguards for women in provincial jails, where male and female inmates may be held together, and where female inmates are commonly

guarded by male corrections officers. This has led to numerous allegations of cases of rape, sexual abuse and other forms of gendered torture against women detainees.<sup>56</sup> For example in 2009, an NGO reported to the UNCAT Committee that ten percent of women detainees surveyed in a recent study had had sex with jail officials prior to their transfer to the CIW, while in another study, four percent of 552 female jail inmates surveyed reported to the DILG that they had experienced sexual abuse while detained, including seven rapes.<sup>57</sup> The NGO, Just Detention International, observes that this figure was severely underreported, and that extreme overcrowding, lack of adequate supervision, and a culture of silence around sexual abuse, have exacerbated this issue.<sup>58</sup>

It should be noted that the extremely harsh drug-related penalties across the country, including for minor crimes, have caused the female detainee population to swell, with no alternatives to detention on offer, except for those who are seriously ill.<sup>59</sup> Drugs cases took up more than 50% of sentences at the CIW according to its records in October 2013, with drug trials clogging the dockets of regional trial courts throughout the country.<sup>60</sup> Many of the women interviewed for this study had been in pre-trial detention for more than two years, with one as long as nine years. Conviction rates are meanwhile low.<sup>61</sup> Various other challenges were identified by DIGNITY's qualitative research into jails and the CIW, and are included in the main findings of this report.

### Reforms and developments

Recent reforms and developments include the adoption of the Anti-Torture Law that recognizes torture as a separate crime and provides a number of important guarantees to aid torture survivors seeking redress. However, few cases have reached the prosecution

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<sup>48</sup> The BJMP staff to inmate ratio on average was 1:46 in July 2013.

<sup>49</sup> See UN Country Team Submission to the Philippines' Universal Periodic Review, 2012, and UN Human Rights Committee, Concluding observations on the fourth periodic report of the Philippines, adopted by the Committee at its 106th session, 2012.

<sup>50</sup> As noted by Baquilod Alvor, a state counsel in the Philippines' Department of Justice, in the fragmented set-up of the corrections system does not lead to sound management and results in functional overlaps and diffusion in the conduct of corrections and restoration activities. Baquilod Alvor, Mildred Bernadette, *The Philippine Corrections System: Current Situation and Issues*, 2005.

<sup>51</sup> US State Department, *2013 Human Rights Report: Philippines*, 2013.

<sup>52</sup> UN Doc. CAT/C/PHL/CO/2, Committee against Torture, Concluding observations on the Philippines, 29 May 2009; Just Detention International (JDI) et al., *Joint Civil Society Report on torture and other cruel, inhuman or degrading treatment or punishment in the Philippines* (2009).

<sup>53</sup> UN Doc. CAT/C/PHL/CO/2, Committee against Torture, Concluding observations on the Philippines, 29 May 2009; US STATE DEPARTMENT, *2013 HUMAN RIGHTS REPORT: PHILIPPINES*, 2013.

<sup>54</sup> UN Doc. CAT/C/PHL/CO/2, Committee against Torture, Concluding observations on the Philippines, 29 May 2009.

<sup>55</sup> JDI reports that local executives or governors are left to decide how these facilities operate and have no interest in upholding the rights of detainees. Many custodial officers in provincial jails are untrained and unqualified and are appointed by the incumbent governor.

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<sup>56</sup> See UN Doc. CAT/C/PHL/CO/2, Committee against Torture, Concluding observations on the Philippines, 29 May 2009.

<sup>57</sup> Just Detention International (JDI) et al., *Joint Civil Society Report on torture and other cruel, inhuman or degrading treatment or punishment in the Philippines* (2009).

<sup>58</sup> Just Detention International (JDI) et al., *Joint Civil Society Report on torture and other cruel, inhuman or degrading treatment or punishment in the Philippines* (2009).

<sup>59</sup> In most jails, these make up the majority of charges (as high as 90%), and in the CIW they make up just over half of the convictions; the remainder are largely economic crimes. Since the passage of the Comprehensive Dangerous Drugs Act (Republic Act 1965), there has been an increasing court backlog of drug cases, due largely to the fact that plea bargains are no longer allowed. Penalties for possession and dealing range from 12 years to the death penalty; possession of between 10 to 50 grams receives life imprisonment.

<sup>60</sup> Interasksyon, *To unclog dockets at RTCs, Sotto proposes drugs court*, Ernie Reyes, 3 July 2013.

<sup>61</sup> Philippine Daily Inquirer, *Only half of drug cases in court end in convictions, says PDEA*, 14 July 2012.

stage and no convictions have yet taken place.<sup>62</sup> As a recent party to OPCAT, the Philippines is developing a NPM that will have the mandate to conduct regular visits to all places of detention in order to strengthen the protection against torture and ill treatment.

Recently, the BJMP has implemented and supported many early-release measures to reduce overcrowding. These have ranged from release on recognizance, probation, parole and executive clemency<sup>63</sup> - to programmes to monitor and help expedite court cases and secure needed documents from the courts for speedy disposition of inmates' cases.<sup>64</sup> These measures have not given special consideration to women as a group.

Measures to improve detainees' welfare have mainly included the creation of the Directorate of Inmate Welfare and Development; plans to build more modern facilities and hire more staff; and the development and implementation (in some of the facilities that have sufficient space and amenable directors) of the Therapeutic Community Modality Program (TCMP).

### **The BJMP's Directorate of Inmate Welfare and Development, and Therapeutic Community Modality Program**

A major development in the field of welfare and rehabilitation for the BJMP was the creation of the Directorate for Inmate Welfare and Development (IWD) in 2007, based on a memorandum issued by the DILG. This formalized and centralized the role of welfare staff in response to the revision of the BJMP's vision and mission to include development alongside 'safekeeping'. Rather than an original system of focal points, assigned officers are now considered change agents, who must monitor and attend to welfare-focused activities

<sup>62</sup> Implementation challenges have included resourcing, a lack of trained medical personnel and effective witness and victim protection. BALAY, the International Rehabilitation Council for Torture Victims (IRCT) and the Medical Action Group (MAG), *Torture and ill-treatment in the Philippines – Implementation of the Anti-Torture Act, 2014*; Amnesty International, *Philippines: Five years later, no convictions under landmark anti-torture law*, 10 November 2014.

<sup>63</sup> CAT commended the release of nine per cent of the prison population by the BJMP during its 2009 review, although reiterating concerns about remaining congestion problems. UN Doc. CAT/C/PHL/CO/2, Committee against Torture, *Concluding observations on the Philippines*, 29 May 2009. JDI et al. noted that the ongoing jail decongestion program by BJMP, using applicable laws, resulted in the release of more than 3,500 inmates, enhanced by its implementation of the Juvenile Justice and Welfare Act (RA 9344) of 16 May 2006, which, among other reforms, changed the age of criminal responsibility from nine to 15 years of age. Just Detention International (JDI) et al., *Joint Civil Society Report on torture and other cruel, inhuman or degrading treatment or punishment in the Philippines*, 2009.

<sup>64</sup> Through this program, authorities released over 24,000 inmates from BJMP jails. US State Department, *2013 Human Rights Report: Philippines*, 2013.

and services inside the prison - from health to recreation - according to a structured programme. In women's prisons this role has the potential to fill important functions and protect detainees' rights - particularly as bridges between inmates and their children, families and communities, and as support in the case of economic or health problems.

The IWD officer also oversees a new and important programme: the Therapeutic Community Modality Program (TCMP).<sup>65</sup> This model, which constitutes a promising practice, uses a system of mandatory structured activity, social group work, leadership roles, trainings and privileges to manage and rehabilitate inmates detainees (although many of these are being 'rehabilitated' prior to a conviction). It also aims to provide livelihood opportunities. The intention is for the TCMP to be developed and piloted for all inmates in BJMP jails country-wide, and was in its first year of evaluation by a BJMP Working Group during the visit by DIGNITY. They were piloted in more jails for women than those for men because these are often less congested and have more space for activities. As of 2014, around 200 jails are implementing TCMP in varying degrees.<sup>66</sup>

However in practice, IWD staff are known to be under-supported and marginalized, with no specific guidance on women's welfare issues. Interviews suggested that many struggle to provide individualized care. In the CIW, one officer cared full-time for 2,300 inmates; she did so by giving priority to pregnant women, new arrivals, older and disabled women, and the terminally ill. TCMP trainings and its manual are also not tailored to the needs of men or women specifically, and face some resistance by individual directors. This is an area with much potential for development to fulfil and protect the rights of female detainees, if sufficiently gender-responsive.

Some of these developments have included male and female inmates, with a few being piloted in female facilities. This includes a micro-savings system that enlists inmates into the Social Security (regarding system for informal workers, see more in Section 7). The BJMP has also moved to reduce overcrowding in women's facilities by establishing more detention centres exclusively for women, including two in 2009, located in Metro Manila and in Cebu City, to which approximately 1,200 women inmates were transferred.<sup>67</sup> However on the whole, few if any recent developments have given specific and systematic attention to women detainees as a group as a result of their sex and gender-related

<sup>65</sup> See the Comprehensive Policy on the Implementation, Monitoring and Evaluation of the Therapeutic Community Modality Training of the BJMP, <http://www.bjmp.gov.ph/files/TC%20Policy.pdf>

<sup>66</sup> Interview with BJMP headquarters staff.

<sup>67</sup> Just Detention International (JDI) et al., *Joint Civil Society Report on torture and other cruel, inhuman or degrading treatment or punishment in the Philippines* (2009).

needs. As noted above, the BJMP currently categorizes women among “inmates with special needs” rather than treating it as a category in itself.

However, the BJMP Operations Manual is currently under revision and reportedly will treat women as a separate category. DIGNITY has also been informed that BJMP plans to integrate the Bangkok Rules into the revised manual, which will include special procedures for the admission of female inmates. This is a promising step, although it has yet to be assessed and more detailed information was not available.

According to NGOs, training remains an area in need of much improvement. Trainings in human rights and communication is not comprehensive for BJMP staff and importantly, does not give consistent attention to welfare needs and gender-sensitive management of women prisoners. This is despite the fact that the Magna Carta for Women mandates all government agencies to allocate at least 10% of their annual budget to gender programming. These gaps are not filled by training from the Philippines’ Commission on Human Rights (CHR) or NGOs, although some organizations have delivered ad hoc sessions in recent years. “We sponsored gender-sensitization training for the BJMP senior officials in the past few years,” said one NGO personnel. “During it they told us that it was their first time. There’s a plan for generally for GAD (Gender and Development) but I don’t see it getting mainstreamed in the prison services. As I observe it, they are simply not gender-sensitive.” There remains an impression that issues relating to women detainees are largely marginalized, and, as found by this report, require prioritizing.

*“When prison issues are discussed here, by organizations, by ministries... they’re about men. You don’t find regard to the women’s jail system.” – NGO staff member*

BuCor, in turn, has been criticised for its lack of progress in detention and working conditions for staff since the law was passed,<sup>68</sup> and public debate has taken place over the steps required to ensure reforms. The provisions of the law had not yet been implemented in February 2015, according to BuCor staff, except for a large scale initiative to hire more personnel. However, a regional prisons construction project has reportedly begun, which aims to address the shortage in correctional facilities, and modernize those available.<sup>69</sup> A plan has been approved that will transfer some inmates from the CIW to a prison in Nueva Ecija, around 300km from Manila.<sup>70</sup> Yet for some female inmates, this could regrettably result in a reduction in the quality of their conditions and their enjoyment of their human rights in some areas. Concerns have been raised that due to the semi-remote location, the prison will be situated far from services and support communities (such as civil society organizations), and will be more difficult for most visitors to reach. The project will not be

<sup>68</sup> Yahoo, *BuCor Chief Not Resigning, Says Reforms Will Work*, 2014.

<sup>69</sup> Manila Times, *Reforms Long Overdue at Bilibid Prison*, 2015.

<sup>70</sup> GMA Network, *NEDA Board OKs transfer of Bilibid to Nueva Ecija*, 23 Oct 2013.

completed for an estimated five to seven years, and more information is yet to be released. However, the findings of this study on the importance of contact with the outside world (see Section 6), and Bangkok Rule 4 on allocation and location of detention should be taken into particular account, as well as inmates’ educational programmes and livelihood opportunities.<sup>71</sup>

In late 2013, DIGNITY was informed by the director of the CIW that discussions were underway within the bureau on expanding the number of prisons for women, centring on Iwahig Prison and Penal Farm. The director reported that a BuCor welfare goal at the time was to incorporate a women’s prison into every penal farm. Evidence of this approach, other than the project above, remains to be seen. However, as detailed above, under the command of its former gender-sensitive director, in 2010 the BuCorp’s main correctional institute for women began to be managed according to a new series of commendable operational guidelines aiming at to bring the institute in line with the Bangkok Rules [Annex 1].

It should be noted that while various laws and amendments in the Philippines regarding violence against women and women’s human rights have been passed in recent years, these have not given specific attention to women in detention, or led to systemic reforms within places of detention.<sup>72</sup> Regarding non-custodial measures, at the end of 2013, one law maker had proposed the drafting of a bill on the suspension of penalties for pregnant women, and the CIW Superintendent was reportedly working on a bill relating to women and mitigating factors in sentencing. Neither of these had been filed as of early 2015.

<sup>71</sup> An interview with one BuCor staff member revealed concerns that various rehabilitative programmes would be disrupted and likely cancelled in the event of this transfer. These include education programmes and vocational training provided by nearby universities, and livelihood opportunities, which are created when business persons in Manila agree to take inmates’ handicrafts to sell outside of the prison. Staff who do not want to relocate may also quit.

<sup>72</sup> These include the Republic Act 9710 of 2009 or the Magna Carta of Women and the Violence Against Women Act 9262 of 2004, under which, according to the State report to the Universal Periodic Review process, Women and Children’s desks had been made operational in police stations, and interagency Performance Standards and Assessment Tools for Services Addressing VAW have been developed, under The Philippine Commission on Women, which benchmark the quality and effectiveness of services provided to VAW victim-survivors, including trafficked victims, to ensure gender-sensitiveness and needs responsiveness.

# Key Findings

## What Matters Most?

*"I live for those visits. When my son is brought to me I hold him tight and try to understand how he sees me."*

One aim of this research project was to step outside of the human rights framework momentarily and determine which issues impact female detainees in the Philippines the most. While these findings are woven into our thematic chapters below on prison conditions, this section gives an overview of these findings.

One of the strongest findings from the pre-trial facilities and the prison was the extent to which the inmates rely on **contact with, and information about, their children**. This topic would often see women, who had initially been composed, become emotional; cry; or start to shake, move and fidget anxiously. Inmates and staff frequently linked instances of depression and emotional challenges among female inmates with separation anxiety, particularly from young children, and with being unable to fulfill what they see as their natural caretaking and protective.

*"If you would only see how the women cry when their small children are brought by neighbours, even the toughest ones. I feel this is the source of their depression."*

A number of women indicated the trauma caused by **giving birth whilst detained**. They spoke, sometimes very emotionally, about the acute stress, anxiety and guilt that they feel in the prison environment as pregnant women. They worry - sometimes obsessively - about the risk that their situation may cause their unborn or newborn children; about having limited power to ensure their baby's health; about who should take care of the baby; and about how they can be sure that it will be safe.

Others - both convicted and non-convicted - dreaded the **stigma** and feelings of **shame** that they expected to face once released back into society, partly because they are women. "The dignity I upheld for my whole life crumbled," said one inmate in her 60s, five years into her remand. "The struggle with my predicament is how to face the society when I'm out. Being a woman is damaged; your sense of female identity is damaged. There should be a more human way of dealing with cases of women."

*"From my experience it is more difficult for women to belong to a group such as this because usually women are not supposed to be incarcerated. They are supposed to be the 'weaker sex'. Men are gregarious, active and more expected to get into trouble."*

Other sources of frustration among inmates included issues of health and dignity, particularly pertaining to **overcrowding, worries about nutrition and poor sanitary facilities**. They also struggle with **the lack of information about their cases, and the cost of making phone calls**. Aspects spoken of with frequent appreciation were elements of **freedom and flexibility** during visits and free periods, and the opportunity to be busy with activities and responsibilities. "Having a measure of control over their lives, being able to get ahead in various ways, and the feeling of usefulness and industriousness is so important, particularly for women here," said one NGO personnel who works in the mental health field.

Detainees' uniformly considered **visits from their families** to be the greatest boost to their spirits. While these are a source of connection and comfort, visitors also often bring supplies to make detainees' time in prison more bearable and dignified, particularly nutritious food and medicine, and money to use on necessities. For the many women who reported estrangement from families and abandonment by their husbands after their arrest, this 'lifeline' is greatly reduced. Various prison staff and NGO staff believed this abandonment and isolation to be a more common experience for detained women, compared to detained men.

*"Many husbands leave. We can't provide what they want."*

In contrast, the greatest concern among staff was the struggle to meet women's physical and health needs, given the shortage of staff and facilities, and also the need to offer better livelihood opportunities and preparation for release. Some staff reported that the structure of the Therapeutic Community programme made the welfare-oriented management of inmates much easier. Discriminatory attitudes were also evident among staff, on occasion. More than one female senior staff member spoke about women as 'feeble-minded' in contrast to men.

## Conditions of detention

This section presents our findings from interviews with detainees,; those who had recently been released from detention; and personnel working with BuCor, the BJMP, NGOs and faith-based organizations.

The primary aim of this research has been to identify the major needs and risks that are common to imprisoned women in the Philippines, and the way that this impacts them, in their own words, rather than to identify and expose conditions of detention in particular facilities. However, it has also been to find challenges and promising practices that are common in the management of female detainees, with international standards as a benchmark. As detailed above, this section has been researched and analysed using mostly qualitative methodologies, framed around international standards for detention, with a particular focus on the Bangkok Rules, and life story and narrative interviewing.

The scope of our research did not include police custody or provincial jails staffed by the police. However, since both our review of human rights reports and our interviews with inmates in other places of detention raised this as a concern, and a strong basis for strong causes for further investigation, we have chosen to report the latter in a separate box, below. The indication of prior torture and ill treatment places particular responsibilities at the door of the next receiving facility for an inmate, whether the BJMP or the BuCor, under the SMRs.<sup>73</sup>

### Conditions in police custody

**Places of short-term detention governed by the police and the Drug Enforcement Agency (DEA) reportedly breach a range of international standards on detention conditions – gender-specific and otherwise – while incidents of violence against women and physical abuse are common.**

Few measures are taken to protect the human rights of women during their detention in jails and jail cells run by the police or DEA. Although efforts are made to separate women from male detainees, limited facilities in police stations means that they may be confined to a precinct's kitchen or administrative office,<sup>74</sup> or not separated at all, at great risk of sexual and other forms of gendered abuse. Few inmates interviewed had been supervised, even partially, by female staff during this stage of detention. Some had been left for a number of days without information, food, medical, or outside contact with families – some without the ability to contact young children – in violation of

<sup>73</sup> Standard Minimum Rule 24.

<sup>74</sup> As noted in Commission on Human Rights of the Philippines, *Human Rights Situation of the Philippines 2012*. It should also be noted that although 'Women's Desks' became a mandatory service in each police station in 2008, yet these are dedicated to cases of domestic violence, and few women interviewed had benefited from gender sensitive treatment. Many had been arrested and detained by the Philippine Drug Enforcement Agency, which has no such desk.

the most basic international standards. Cells were described as dark and dirty, with old mattresses, cartons, or only the bare floor to sleep on, with running water only sometimes accessible.

Human rights reports and interviews by DIGNITY with NGOs have indicated that women commonly experience rape and other forms of violence while detained by police [See National Context, above], although these incidents are commonly underreported, and this treatment was not reported from our interview sample. A few detainees spoke of seeing the torture of male detainees, and one woman was threatened with extrajudicial execution during her arrest by the DEA. Other inmates experienced inhuman or degrading treatment in police custody, such as verbal abuse and harassment, both with and without gendered overtones. These short term facilities require immediate review and reform in line with the Bangkok Rules, SMRs and other international standards. Given the large proportion of women who are detained for drug offences, this is particularly critical for the DEA.

## 1. Admissions and classification

**Admissions practices meet certain international standards while breaching others. A lengthy confinement process causes particular concern in the context of ill treatment and inmates' basic freedoms, while resource challenges were found to promote gaps in screenings.**

### Global perspective

*For many women, the first days and weeks are among the most distressing and traumatic of their time in detention. This is particularly so for those from societies in which spheres for women are smaller, and limited to their families and communities. There is a fear of the unknown and a strong sense of helplessness, shock and shame. Research has suggested that suicide and self-harm are a particular risk for women at this time.<sup>75</sup>*

*Given the common backgrounds of women offenders in much of the world as mothers, as well as victims of abuse and substance abusers, their needs on entry to detention and in the planning of their rehabilitation are different and arguably greater to those of*

<sup>75</sup> UNODC, *Drug Abuse Treatment Toolkit, Substance abuse treatment and care for women: Case studies and lessons learned*, United Nations, New York, 2004.

*men.<sup>76</sup> As the Kyiv Declaration on Women's Health in Prison notes, it is not uncommon for a woman to enter detention — separated from her family and in a state of great anxiety — and on receiving her first health check in a long time, find that she is both pregnant and HIV positive.<sup>77</sup> To protect and fulfil the rights of women in detention, receiving staff must implement classification methods that address these needs and circumstances, and ensure that plans for their rehabilitation are effective, individualised, and allow for their reintegration into society. Staff must be trained and gender-sensitive, and admissions processes must attempt to reduce stress and orient women in ways that they understand. This extends particularly to the use of search procedures, and allowing women to arrange for the care of children left outside, two areas that caused the most distress.<sup>78</sup>*

**International standards** on admission and classification of prisoners are found in Art. 10 of the International Covenant on Civil and Political Rights (ICCPR), while standards to combat discrimination against women are found in UN Convention on the Elimination of Discrimination Against Women (UNCEDAW). These legally binding international provisions are further expanded in soft law standards in the SMRs (Rules 8, and 67-69, and Rules 2 (non-discrimination), 6-11, and Rules 93-94 in the revised SMRs), the Body of Principles (Principles 24-26) and the Bangkok Rules (Rules 35, and 40-41).

BJMP guidelines on admissions screening require a thorough medical examination, but also allow receiving officers to instead perform a basic physical check when this is not possible. This was often found to be the case, contrary to SMRs 24. Gaps were therefore evident, including in the areas of sexually transmitted diseases and HIV testing, and mental health screening. For example, one inmate told us that her medical records were not accessed from her doctor when she was arrested while eight months pregnant, and then subsequently gave birth while detained. DIGNITY was informed that staff do ask and physically check new arrivals for signs of abuse during medical examinations, as well as test for pregnancy, in line with the Bangkok Rules.

In prisons and jails the practice of confining and isolating new inmates in a communal 'holding facility' for between one and three months was observed. This is intended to 'debrief' and prepare them for prison life, and to identify signs of substance abuse.

<sup>76</sup> Jenni Gainsborough, *Women in prison: international problems and human rights based approaches to reform*, William & Mary Journal of Women and the Law, vol. 14, No. 2 (2008), pp. 271-304.

<sup>77</sup> United Nations Office on Drugs and Crime & World Health Organisation (UNODC & WHO), *Women's health in prison: Correcting gender inequity in prison health*, 2009.

<sup>78</sup> DIGNITY, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014.

During this time an orientation is most often given to the group by a senior inmate. Although some inmates appreciated the slow introduction to the prison regime and environment at an anxious time, for others the procedure appeared to have a variety of harmful effects, and blocked various rights. In some cases inmates were in crowded cells/dormitories for 23 hours per day, denied basic freedoms such as regular telephone calls,<sup>79</sup> and kept from activities. Cells would be left only for visits (the hours of which were restricted compared to regular inmates), court hearings and religious meetings, and in some cases visits from children were also restricted. Some inmates report that being so confined increased their anxiety and depression. One senior staff member in a pre-trial facility suggested that the women needed to “learn and condition themselves in the first period” not to see their children so often. This is a possible source of harm for women and their families at an anxious and turbulent time, and stands at odds with Bangkok Rules 23 and 26.

While dormitory sizes differ, there is a positive practice of classifying and grouping women by religion, age, and even educational pursuits, with flexibility on request. Convicted and remand inmates are often but not always accommodated separately. Women mingle freely during communal hours.

## 2. Physical and material conditions

**Some facilities excel in staff effort and attitudes, but fall short of international standards, particularly on personal hygiene and gender-sensitive provisions. Overcrowding, a lack of sufficient space, sanitary installations, beds and free sanitary products and hot water create a challenging environment for female detainees.**

### Global perspective

*Every detainee will be profoundly affected by their physical environment, from the amount of light that they get, to the quality of the food and cleanliness of cells. Yet, some conditions or deprivations can be more common among particular groups, and can be experienced in different ways, depending on the identity of the prisoner.*

*In 2008, the UN Special Rapporteur on Torture raised the bar for the protection of women by introducing a gender-sensitive interpretation of torture. In the context of detention, he acknowledged that poor hygiene, among other conditions, can have a more adverse*

<sup>79</sup> In one facility we were informed that women are not allowed to use the telephone for the first month.

*impact on women in detention compared to men.<sup>80</sup> Research, including that by DIGNITY, has highlighted the harmful consequences for women in detention, whether the shame of inmates as they struggle to keep themselves clean during menstruation or after giving birth, or the fear, guilt and helplessness felt by mothers when they are unable to keep children who live with them clean and healthy.<sup>81</sup> Such poor conditions can also leave women vulnerable to exploitation and abuse, if, for example, they must barter sexual acts for basic provisions.<sup>82</sup>*

**International standards** relating to detainees’ physical and material conditions of detention can be found in the umbrella provision in Art. 10 of the ICCPR, while standards to combat discrimination against women are found in UNCEDAW. This protection is further strengthened by soft law provisions in Rules 9-20 of the SMRs (Rules 12-22 of the revised SMRs, as well as Rule 2 (non-discrimination)), while Bangkok Rule 5 and its Chapter II on rules applicable to special categories of prisoners now strengthen this protection with gender-sensitive provisions.<sup>83</sup>

According to national actors and prison staff the conditions in larger women’s institutions tend to be cleaner and better cared for by inmates compared to those for men. Yet they are also likely to be very cramped, short on budget and staffing, and not fully within the confines of the ‘clean, comfortable, and hygienic’ accommodation of the SMRs. Conditions in the CIW are less crowded, better maintained and more open than most of the remand jails visited for this study, although some women are still required to share single bunks, and the number of sanitation facilities are not sufficient for such a large group.

*“We struggle to fill even their basic needs. We have P50 (approx. USD 1) per day each. What can we provide with that?” – Senior officer*

DIGNITY visited a remand jail in which over 500 women were sleeping in two dormitories that were built to accommodate about 150 people. Beds here are a privilege that women often earn through status or payment; others will sleep on the floor on cardboard boxes or linoleum. In one facility inmates reportedly pooled their earnings in order to buy linoleum, so that those who slept on the floor would be more comfortable. Some facilities have no beds at all, ostensibly to reduce the impact of bed bugs.

<sup>80</sup> UN doc. A/HRC/73, para 41.

<sup>81</sup> DIGNITY, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014.

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

In pre-trial jails this was reported as a problem by inmates for women who are pregnant or who have recently given birth and are housed together with other inmates. By contrast, in the Manila CIW such women are provided with a comfortable and clean 'mothers' ward' in the clinic, with beds, access to healthcare staff, and toys. Women are generally permitted to keep children with them for one year, extended occasionally to three years, according to the former Superintendent. Here however, loneliness is a concern, since they are largely barred from mixing with other inmates, ostensibly to protect the health of the child (see more in section 4 on mental healthcare). There is a special dormitory for elderly women and women with disabilities where fellow inmates also serve as caregivers and assistants.

*"It's not easy to fall asleep, we sleep here like sardines. In your mind you just wish you could be hugging your kids goodnight."*

Areas that women struggle with include degenerating bathrooms, a lack of cleaning materials, shortages in soap, access to hot and running water and other sub-standard conditions relating to sanitary installations and personal hygiene.<sup>84</sup> Many of these fall short of the SMRs, as well as the provision on gender-sensitive hygiene in the Bangkok Rules. In some facilities, for example, both sanitary towels and hot water were charged for.

Various positive aspects contribute to the dignity of female inmates in the Philippines. This includes the freedom to roam around inside and outside spaces for much of the day. These spaces varied widely among facilities: in one there is a well-kept garden landscape with brightly painted concrete bungalows and an outside communal dining area, while in a smaller urban jail there are just four large, dim, high-ceilinged rooms, with high windows and an enclosed roof space for activities. DIGNITY observed that women are allowed to own and use body care items and cosmetics – including access to tweezers and scissors under the supervision of staff – and can sport various hairstyles; many inmates appear to take care and pride in their appearance, and this contributes to their sense of dignity. They are also generally able to visit a prison shop daily to buy snacks and hygiene products. Attention is given to creating a nutritionally balanced diet that varies by day and by month and the same meals are reportedly shared by staff. However reports and campaigns in the Philippines have also alleged poor condition and implementation gaps regarding food, generally.<sup>85</sup>

Healthcare staff noted that the nutritional needs of women who are pregnant, breastfeeding or who recently gave birth are considered and systematically responded too with changes in diet, although some inmates in the same facilities disagreed with this.

<sup>84</sup> In some prisons women had access to formal bathing facilities whereas in others two women shared one pail of water for bathing.

<sup>85</sup> A recent article noted that there is a P50 (USD1) food budget allocated by BJMP, which changes each month, and is approved by the prisons' National Food Service Council. As of January 2015 this was still the case. See Philippine Daily Inquirer, *Three Meals, P50. The Joy of Cooking: Priceless*, 3 November 2013 and also Philippine Daily Inquirer, *Food for Sica detainees 'inferior'*, 6 December 2013.

Regarding the social climate, officers and detainees in a variety of facilities described a largely neutral or positive relationship between them, and a busy, high functioning atmosphere. "Community feeling can't be attained here easily because of our different backgrounds," noted one young inmate, describing the benefits of the Therapeutic Community structure, in which groups of inmates are responsible for particular tasks [see more in Section 7 on work, education and recreation]. "But in my brigade we're active, and little by little it helps." In one best practice, staff at the Manila CIW have been directed by memorandum to make a special effort to deal personally and sympathetically with inmates, with "awareness of emotional dynamics."

## **Torture and Cruel, Inhuman or Degrading Treatment or Punishment**

As detailed in our section on National Context, torture and ill treatment is an urgent problem in many detention facilities in the Philippines. In 2009 the Committee on Torture expressed serious concern at the numerous allegations it had received of rape, sexual abuse and torture committed against women detainees by the police, military and prison officials and personnel, and the detention of women with male inmates and guards in provincial jails.<sup>86</sup> During interviews for this study, some detainees spoke of feeling unsafe and intimidated during the arrest process, among police, including being taken to secluded places and being threatened with harm, although none reported being physically harmed. NGO staff informed DIGNITY that sexual violence or coercion is used commonly during this stage to women who are vagrants or sex workers.<sup>87</sup> These incidences nevertheless remain under-reported, due to feelings of shame, fear of reprisals, and impunity.<sup>88</sup>

Reports of torture were not received during research among the four women-only facilities visited. Cause was given for concern, however, by inadequate measures to separate male staff from female inmates in at least one facility, indicated by reports

<sup>86</sup> Committee against Torture, Concluding observations, The Philippines, 29 May 2009, UN Doc. CAT/C/PHL/CO/2 Just Detention International (JDI) et al., Joint Civil Society Report on torture and other cruel, inhuman or degrading treatment or punishment in the Philippines, 2009.

<sup>87</sup> See also Just Detention International, *Sexual Violence in Philippine Detention Facilities, 2009*, Women in prostitution and trafficked women are particularly at risk for violence at the hands of government officials since being part of prostitution gives space for undue discrimination by law enforcement agencies.

<sup>88</sup> Current and former inmates, corrections and prison officials, and NGOs agree that it is fear, shame, and a belief among inmates that no help is available that prevents survivors of sexual abuse from speaking out about their experiences. See Just Detention International (JDI) et al., Joint Civil Society Report on torture and other cruel, inhuman or degrading treatment or punishment in the Philippines, 2009.

of sexual relationships between them [see section 3 on safety and security]. While indications of cruel and inhuman treatment were generally few, reports of shackles being used on pregnant women during transport to hospital and possibly at the hospital,<sup>89</sup> and of prolonged disciplinary confinement of up to six months indicated breaches of human rights standards [section 3], as did reports of inappropriate and harmful responses of officers to self-harming by inmates [see section 4 on healthcare].

### 3. Safety and security

**Findings on gender-sensitive security measures were generally positive in the visited facilities in areas such as segregation of the sexes, and search and disciplinary practices. Causes of concern included the reported excessive use of prolonged confinement, the use of shackles on pregnant women, and possible sexual contact between inmates and male staff — particularly among women without outside support or adequate livelihood opportunities. The authority wielded by untrained inmate leaders is also a cause for concern and consideration.**

#### Global perspective

*The SMRs require States to ensure that prisons are secure, safe and well organized. Yet implementation gaps remain, and discrimination and gender norms influence the kinds of abuse and exploitation that detained women face globally. This ranges from their experience of security measures and discipline, and their sense of insecurity and fear, to their ability to respond, and achieve change or justice.<sup>90</sup> Meanwhile, since the structural and discriminatory causes of violence against women can reach into and be magnified in places of detention, it is important to understand and prevent the different types, frequency and impact of this abuse, and to stress the obligations of States to do so.*

*Even where facilities comply with international standards on separating male and female detainees and successfully prohibit violence, female detainees may still face abusive treatment and attitudes from staff, including degrading search procedures and the*

<sup>89</sup> Rule 24 of the Bangkok Rules provides that instruments of restraint shall never be used on women during labour, during birth and immediately after birth. This would include transfer to hospital, if the woman is considered to be in labour at this point.

<sup>90</sup> Baker, Jo, *Women in Prison: The particular vulnerability and risk of abuse*, Essex Human Rights Centre Blog, 30 September 2014, <https://blogs.essex.ac.uk/hrc/2014/09/30/women-in-prison-the-particular-vulnerability-and-risk-of-abuse/>

*arbitrary use of solitary confinement – even in response to self-harm. To prevent this, required responsive measures range from gender-sensitive admission, complaint and investigation processes, to the training of staff in gender-sensitive communication and security approaches, in line with human rights obligations.*

**International standards** on prisoners' safety and security are found in a range of international human rights treaties, notably the ICCPR, the UN Convention Against Torture (UNCAT), and the Convention on the Rights of the Child (UNCRC). UNCAT provides the main yardstick for the responsibility to protect detainees from gender-based violence, which covers mental, physical and verbal forms perpetrated by States, and also acts of violence by other detainees, if prison officials have failed in their responsibilities to protect. To neglect this responsibility is also a violation of UNCEDAW, as acknowledged by its General Recommendation 19 and reiterated in a raft of soft law documents, such as the UN Declaration on the Elimination of Violence Against Women.<sup>91</sup> This protection is further boosted for detainees by soft law standards in Rules 27-34 of the SMRs (Rules 1, 36-54 and 73 of the revised SMRs) and Rules 22-24, and 31-32 of the Bangkok Rules.

In line with international standards, women were separated from male inmates in the facilities visited, although in one small prison there were rare crossover activities, such as dance classes or Bingo games. These could lead to romances via letter or phone, but were strictly monitored, and largely appreciated by inmates. However, this key protection is not afforded in all places of detention for women. NGO staff spoke of at least one small remand jail in which female inmates are able to form and sustain physical relationships with male inmates. Details were scant, but caused considerable concern for the welfare of the women involved and the risk of exploitation or 'survival sex'. "It's because the [men] can earn money," said one interviewee. "Women can earn money too, but I think males have better access with manly activities like carpentry. Women are limited to baking, making bags or candles, which is not that profitable." This highlighted discrimination in earning between the sexes as a significant risk factor for female detainees.

There is a female warden and a mostly or fully female staff in all the facilities visited. While some facilities, such as the CIW, had a strict policy of monitoring and accompaniment for all male visitors inside the facility, including religious leaders, this was less apparent

<sup>91</sup> Article 2 of the latter provides that violence against women shall be understood to encompass, but not be limited to, the physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs. In UN Resolution 61/143 of 19 December 2006, entitled Intensification of efforts to eliminate all forms of violence against women, the General Assembly urged States to take positive measures to address structural causes of violence against women and to strengthen prevention efforts addressing discriminatory practices and social norms, including with regard to women in need of special attention, such as women in institutions or in detention.

elsewhere. DIGNITY encountered male medical, security and welfare staff in BJMP facilities who appeared to be under less rigorous surveillance. Researchers were informed of sexual relationships taking place covertly between female inmates and male staff in one facility. As above, inmates and NGO staff linked these relationships with limited livelihood opportunities for women, particularly among those who have no outside support.<sup>92</sup> This was not raised as an issue of grave concern by inmates interviewed, but this may have been due to the risk of reprisal. As one inmate acknowledged, quietly: "It's a secret subject... The walls have ears."

*"Some women are forced into that kind of situation because they feel desperate. It's a way out – holding on to something, even though it's dangerous. We have a phrase in the Philippines: 'it's like holding onto a knife, for your life'." – NGO staff member*

Search procedures appear to be well regulated by both the BJMP and BuCor systems, and commendably in line with international standards. Clear and detailed guidelines have been issued on strip and visual cavity searches, such as the need for authorization and private well-lit venues. Only low security pat-down measures tend to be employed on inmates and their visitors, while a waiver and information document is used for visitors if a strip search is ever required. No complaints were made to DIGNITY in this area. However, we were concerned to hear from senior officers about the practice of using restraints on some pregnant women during hospital visits, possibly during labour (but not during the birth itself), which would be a breach of the absolute prohibition of inhuman and degrading treatment and others specific standards on detention.

The disciplinary procedure was well governed and systematized in the facilities visited. Punishments are officially carried out by Disciplinary Boards, which tend to involve a Deputy Warden and staff from the paralegal, operation and welfare divisions, as well as an inmate representative. Inmates are able to speak in their defense, and the practice was generally appreciated by the detainees interviewed. Some punishments were in line with international standards, such as cleaning, and short periods of confinement alone, though often within sight and earshot of other prisoners. However, DIGNITY was also informed that confinement for some infractions, like fighting, could be excessive. We heard of confinement cases for as long as six months, during which inmates are reportedly not allowed phone calls or visitors, and rely on others to deliver food to them. Other examples were heard in which women had lost their right to calls and visits. This is a breach of the prohibition on inhuman and degrading treatment, and carries gendered implications for the welfare of the women and their families, as highlighted in the SMRs and Bangkok Rules.

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<sup>92</sup> In one facility DIGNITY was informed that male security staff also paid particular 'trustees' among inmates who did their laundry, prepared food and coffee, which could be a gateway to such arrangements.

In one facility an incident (an escape) had resulted in most inmates being confined to their cells for months, indefinitely. Detainees were let out to receive visitors, for an hour of exercise each day, and for Therapeutic Community meetings once every few days. However morale was found to be very low, and the cells were small, with much less personal space than that called for by the SMRs. "We call it 'Buryong' or Boiling Pot," noted one NGO staff member. "Inmates become depressed, anxious and questioning about themselves. It creates agitation and disharmony, in a sense, undoing any rehabilitation."

*"The padlock on our cell is a nightmare. We can't wash our clothes properly, we're all in an emotional state. We didn't feel so much like prisoners before, but now we do."*

*"I feel weak when we're not able to go out of our cells. We old women need exercise because of our joints. We can't just be locked in here."*

As with many prisons across the world, senior inmates in the Philippines take on much of the control and management of their peers, and a hierarchy is encouraged and facilitated by staff. This is often a direct result of understaffing,<sup>93</sup> although may also have been integrated into the leadership element of the Therapeutic Community programme – this was not clear. Appointed 'Mayors' or dorm officers, who are in some cases elected annually by inmates themselves, become a buffer between detainees and staff. They resolve inmates' issues, deal with administrative and medical requests, and hold some power over privileges like bed allocations and work duties.

As part of the Therapeutic Community programme, leaders are appointed in various areas, from monitoring 'correct and respectful speech' to neat clothing and cleanliness. In return they may receive an allowance (P100 per week, equivalent to USD 2.25), a better bed and some supplies from other inmates. DIGNITY observed that leaders were often but not always the stronger or more wealthy individuals, but also positively included quieter women, and sexual, religious and ethnic minorities. Those interviewed rarely commented or complained about this system and some felt empowered by it. It should be noted that such systems of government are accepted by the SMRs, but with emphasis that these not stretch to disciplinary duties.<sup>94</sup> While this may allow for closer attention and care for detainees in an understaffed environment, leadership, gender and other trainings, and close monitoring of 'mayors' would prevent gender specific risks and abuse, such as barriers to health care or advice. For example in some facilities non-senior inmates are worryingly only allowed to approach staff through their mayor (see more in section 5 on information and complaints).

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<sup>93</sup> According to 2013 BJMP statistics, this hovers around 1:46 but dips as low as 1:77. It should be noted that in one 500-woman facility visited, there were just five security staff, one nurse, a few administrative personnel and the officer of the day per shift on duty.

<sup>94</sup> See Rules 28.1, 28.2.

Incidents of violence were not reported from within the prison or jail system, other than rare fights between inmates.

## 4. Healthcare

**Healthcare was a primary struggle in all the facilities visited, due to an acute shortage of medication, staff and facilities. Large gaps were indicated in general and gender-specific treatment, particularly mental and reproductive health, and specific care for substance abusers, pregnant women and new mothers, and victims of gender-based violence. Some steps were being taken to build a semi-therapeutic environment. Welfare officers could fill some of these gaps if they were given more support from their bureaus.**

### Global perspective

*Health is a fundamental human right for all. Yet in most countries, largely due to the living conditions and lack of preventive healthcare in places of detention, prisoners suffer from poorer health than the general population (particularly mental health diseases and infectious diseases, but likely also non-infectious diseases and cancer).<sup>95</sup>*

*This is especially so for women. Studies have revealed that women have higher prevalence than men of most diseases, including mental health illness, HIV, hepatitis and cancer; and that rates of deliberate self-harm in the year preceding imprisonment,<sup>96</sup> and during prison, is much higher among women than among men.<sup>97</sup> In her 2013 report on pathways to and consequences of detention for women, the UN Special Rapporteur on violence against women highlighted the vulnerability of women to psychological distress, substance abuse, personality disorders, histories of abuse and self-harm.<sup>98</sup>*

*International standards have recognized that the different risk factors and backgrounds of women must be responded to with a gender-specific framework for healthcare in*

<sup>95</sup> The higher prevalence of disease among prisoners is due to living conditions in the prison, including high risk of transmission of infectious diseases (overcrowding, sharing of needles), less access to effective health care, and intake of prisoners who already suffer health problems. See more in Fazel S. Baillargeon J. *The health of prisoners*. The Lancet 2011; 377:956-65.

<sup>96</sup> Ibid.

<sup>97</sup> Hawton K, Linsell L et al. *Self-harm in prisons in England and Wales: an epidemiological study of prevalence, risk factors, clustering, and subsequent suicide*. The Lancet 2014;383:1147-54.

<sup>98</sup> UN Doc. A/68/340, Report of the Special Rapporteur on Violence Against Women, Pathways to, conditions and consequences of incarceration, 21 August 2013.

*order to protect their fundamental human rights.<sup>99</sup> Meanwhile, binding obligations to actively combat gender inequality mean that prison officials must work to improve the level of health knowledge and care histories of women, due to gender barriers in their communities. As recognized in the commentary to the Bangkok Rules, women often arrive at prison with greater primary health-care needs compared to men.*

*It should be noted that the highest indication of depression and the lowest sense of morale have been found by DIGNITY's research to exist in prisons where more authoritarian structures and negative relationships between staff and inmates were reported, and in which women felt stigmatized and isolated from caring relationships. Meanwhile, inmates' morale and sense of identity appeared much better in facilities that connected them with the outside community – from NGOs and spiritual organizations to family members and children – and gave them tools to cope, communicate and prepare for the future.<sup>100</sup>*

**International standards** include the basic principle on the right to health that is found in Art. 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), supplemented by Art. 12 of UNCEDAW. These rights are further expanded in a wide range of soft law standards in SMRs 22-26 on prison healthcare (Rules 24-35 and 42 of revised SMRs, as well as Rule 2 (non-discrimination)), and Bangkok Rules 6-18.

The prison population in the Philippines has greater health needs and worse health provisions than the community as a whole,<sup>101</sup> and the government budgets for around P5 (USD 0.1) per prisoner per day for health care.<sup>102</sup> DIGNITY was informed by healthcare staff that facilities for men and women (particularly in BJMP jails) were under-stocked,

<sup>99</sup> UNODC, *Handbook for Prison Managers and Policymakers on Women and Imprisonment*, United Nations Office on Drugs and Crime, 2008.

<sup>100</sup> DIGNITY, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014.

<sup>101</sup> This is acknowledged by the Prison Reform Trust, and a recent medical study into prison health conditions in the Philippines, which notes that the prison healthcare system "should focus not only on the curative, but on the preventive and promotive aspects of nursing by employing more comprehensive programs for the community in prison. These include conducting regular check-ups, keeping updated and accurate medical records, as well as encouraging responsible individual health care. In the field of Nursing Education, the researchers highly suggest the inclusion of prison as one facet of Community Health Nursing, since it is actually a part of the society though often neglected." P 69 *Blood Pressure Behind Bars: A Descriptive-Correlational Study Of Lifestyle Factors And The Increase In Blood Pressure Among New Bilibid Prison Inmates*, Clute Institute International Conference, March 2012, Bangkok, Thailand.

<sup>102</sup> ABS CBN News, *Gov't spending P 64K/year per prisoner*, 26 May 2011.

with only basic medication available, such as painkillers, low grade antibiotics, analgesics and anti-spasmodics. Some lacked any medication for hypertension, diabetes or asthma, or supplements for iron deficiency – the latter being a common complaint among female inmates. Most facilities lacked specific treatments for substance abusers, even though a majority of women in remand are convicted of drug-related crimes.<sup>103</sup> Clinic space in the BJMP facilities was also very tight,<sup>104</sup> with inpatients sometimes needing to sleep on make-shift beds and benches. One facility for over 200 women featured just one clinic bed. There is a full 30-bed clinic wing in the CIW.

*“All we can provide is security, food and shelter. If we didn’t have outside help from NGOs, religious groups, I don’t know what we’d do. They need much more medical and emotional care here.” – BJMP welfare officer*

Staffing is a considerable problem. Among BJMP jails there is often just one duty nurse in each facility. Other roaming doctors and nurses, who cover regions made up of several provinces, visit facilities anywhere from four times per week to just a few times per month. In some cases officers who are nursing graduates are instead reportedly required to attend to medical issues, whether fully certified or not. Inmates are sometimes used as assistants with tasks such as looking after the medicine supply and treating wounds.

One gendered gap is found in the reporting process. Because women are usually required to first report their health concerns to a cell leader and duty officer, this has led to common yet embarrassing conditions being underreported, with potentially harmful consequences. “Women keep STDs (sexually transmittable diseases) and UTIs (urinary tract infections) to themselves,” noted one health worker. “It’s the Filipino culture.” Preventative health care such as HIV tests and Pap Smears are rarely performed, while hepatitis screening appeared to be more regular.<sup>105</sup> Health education is minimal and not systematic or resourced, although some nurses may offer seminars on their own initiative.

Some pregnant or formerly pregnant women reported regular check-ups from a prison midwife, or via NGO assistance, which sometimes plugs care gaps. But DIGNITY spoke to at least one woman who received no check-up or blood tests, when arrested less than a month before her due date, and detained during and after labour, despite comprehensive BJMP policy on pregnant inmates [see section above on the legal framework]. Onsite

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<sup>103</sup> In most jails, drug charges make up the majority of charges (as high as 90%), and in the CIW they make up just over half of the convictions. Interaskasyon, *To unclog dockets at RTCs, Sotto proposes drugs court*, Ernie Reyes, 3 July 2013; Philippine Daily Inquirer, *Only half of drug cases in court end in convictions*, says PDEA, 14 July 2013.

<sup>104</sup> In one facility for over 200 women, there was one clinic bed.

<sup>105</sup> In one city, we were informed that the City Health Office offers tests to some of the higher risks inmates, but not on a systematic basis.

facilities do not have full equipment for pre-natal care, such as ultrasound machines, and most women are taken to government hospitals for final check-ups, and the birth. Yet DIGNITY was informed that pregnant women may have to pay around P450 (USD10) for lab tests and medication, and that there is little or no aftercare. One woman spoke of relying largely on warm water and help from inmates to heal after labour. This is particularly problematic in facilities in which hot water is charged for, and a serious violation of the right to health. A few inmates spoke of not being able to get the traditional medicines that they would usually use to heal, although CIW staff report working with NGOs and service providers to try and source provisions for such women.

*“It was my first baby. I had stitches. Fellow inmates advised me on how to take care of them, and we can heat water here. It wasn’t easy. I coped.”*

According to one superintendent, restraints are sometimes used on pregnant women in hospital if they are ‘high risk’, although not during the birth itself. This breaches a range of international principles and conventions.<sup>106</sup> Because a court order is required for hospital visits in all but emergency cases, transfer delays can stretch from three days to a number of weeks, with potentially harmful consequences.

### **Mental healthcare**

*“Almost all the women here are mothers, and a lot have maltreatment and molestation in their histories. I can look around this room and count more than ten women who have been raped at one point in their lives. Some have been prostituted by their families. This is a glaring pattern and drug use comes in and makes this a vicious cycle.” – Prison healthcare personnel*

Given the disproportionate need among women generally for mental health support and care, very little has been made available in place of detention for women in the Philippines. Facilities do not meet Bangkok Rules 12-13 on mental health care. There is a great shortage of psychological staff, and inmates in obvious need of care are sometimes referred to the National Centre for Mental Health; this reportedly tends to require a court order and severe symptoms of mania. While one woman’s jail benefitted consistently from a staff member with psychiatric training, she also carried out custodial duties and has found that the two are difficult to reconcile: she was unable to gain inmates’ full trust and treat them effectively, and had too little time to try. “I think a psychologist would help us,” said one inmate at the same facility. “But they need to approach and ask us if we want help, not just say hello and expect us to ask. Many women wouldn’t do that.”

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<sup>106</sup> See Articles 7 and 10 of the International Covenant on Civil and Political Rights (ICCPR), Article 16 of the Convention Against Torture (CAT), SMR 33 and Bangkok Rule 23c.

*"To be taken away from children and family? That's a kind of torture for women in the Philippines, more than men, especially younger women with smaller children."*  
— NGO health worker

*"You see depression, certainly. The women are far from family, with no normal life."* — Welfare officer

Depression was visible and referred to regularly during interviews, often in relation to separation from families and children. This was also acute among women who had given birth in prison but did not keep their children with them. Yet no particular programme or treatment is offered for signs of post partum or other forms of depression. In the CIW, where pregnant women and new mothers are separated from other inmates, and not able to join communal activities, this appeared to be a particular risk.

Issues of violence and trauma were not often discussed by inmates. According to health workers however, these tend to be very common, are not freely spoken of, and require significant treatment in order to address the related trauma and shame. DIGNITY encountered one woman in remand jail who had received no special treatment or attention although she suffered from learning difficulties and had experienced near-lethal domestic violence, and violence during sex work. "I keep my mind busy, listen to the radio, dance, and try to pretend I'm a child again," she said. The shame and stigma of detention was also an issue raised by inmates, which contributed to their anxiety.

*"Being a woman is damaged. Your sense of female identity is damaged."*  
*"The stigma of being incarcerated can be strong among women. They feel shame that they haven't done their role as mothers. They have a need to be busy, productive."* — Health worker

Self-harm was reported, although this appears to take place infrequently in the facilities visited. One long-term remand inmate had known of two incidents in five years. However in at least one case staff responded in a degrading and harmful manner, suggesting the need for training. "One girl used the edge of a seafood shell on her wrists," said one inmate. "The [staff] scolded her: 'If you want to die, go ahead, do it now!'"

Most of the NGO and prison staff interviewed by DIGNITY attribute the Therapeutic Community Modality Program (TCMP) with helping to significantly combat depression among inmates, as did some inmates. The model, adapted from a US-designed rehabilitation tool for substance abusers, uses structured activity, social group work, leadership roles, trainings and privileges to manage and 'rehabilitate' detainees (although many have not yet been convicted of a crime), and is overseen by the Inmate Welfare Development

officer.<sup>107</sup> The programme aims to teach responsibility, good behaviour and communication skills within a framework of mandatory activity, referred to as a more 'community-like' environment. This starts with a morning meeting, and carries through — via duties and activities — until early evening.

While this study did not make a thorough assessment of the programme, researchers notably found detainees to be generally more active, hopeful and engaged than female inmates encountered during research in various other countries.<sup>108</sup> "It helps because it's about looking into yourself, why you are here, and how you should be responsible for each other," said one inmate. "You feel an enthusiasm coming from the women," noted one healthcare personnel, describing the morning TC Meeting. "You see them learning to express problems in a constructive way, show off their talents and build their confidence and presentation."

Nevertheless, the programme operates without strong guidance or input from trained counsellors, and is not a sufficient replacement for specialist mental healthcare. Importantly, the TCMP training and manual are not yet designed for the different needs of men or women specifically. As noted above in the section on reforms, this offers a valuable opportunity for gender-responsive development. During interviews, welfare officers also indicated that they could play a much greater support and counselling role, in response to women's special needs, if they were better supported by their bureaus.

There is no gender-specific treatment programme for substance abuse, as required by the Bangkok Rules. Prisoners in the CIW with substance abuse problems are kept in a different wing near the clinic, where they receive closer attention and supervision from medical staff. In the BJMP facilities visited, staff rely largely on the TCMP structure. "We can offer them mainly advice. Tell them to bear with us, think of your children and loved ones, and when you're out we wish and hope you don't go back to old habits," said one officer.

Inmates cited daily religious services and group sessions as a strong source of comfort. These are held by religious groups of all denominations and feature a strong religious advocacy component; this may exclude those who are not, or not strongly, religious.

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<sup>107</sup> See the Comprehensive Policy on the Implementation, Monitoring and Evaluation of the Therapeutic Community Modality Training of the BJMP, <http://www.bjmp.gov.ph/files/TC%20Policy.pdf>, and read more in the section on Reforms, Developments and Challenges, above.

<sup>108</sup> One exception, as noted in Safety and Security, was the prison operating a mass confinement policy in response to an escape.

## Special Groups

Efforts were made to balance interviews among a broad range of detainees, including those of varying ages, religions, and marital and motherhood status, and where possible, gay, foreign and indigenous women, those with disabilities, and those living with HIV. However the scope of this study did not allow for thorough research into the common experiences among particular groups of women, or forms of intersectional discrimination. It should nevertheless be noted that the following groups were highlighted during interviews as being particularly vulnerable to rights violations. Further research and consideration is certainly required into the ways in which women belonging to particular groups may experience detention differently.

**Pregnant women and mothers:** Many of the deprivations detailed above will have a particularly strong impact on pregnant women and new mothers. These include matters of nutrition, physical healthcare, psychological and emotional support, access to information on medical and custody options, and adequate contact with the outside world (to ensure bonding between mother and child once it leaves her care, and to ensure regular contact with its carers). Yet provisions in BJMP facilities are limited, and DIGNITY found that new babies rarely stay with their mothers for more than a few days. In the CIW inmates can keep their children with them for one year, or longer on special request; however, DIGNITY was informed of cases in which women gave their babies to outside carers early because they could not afford to provide enough food, clothing or other necessary items for them. This suggests that provisions from the authorities are inadequate. It should also be noted that, where mother and child stay together, both must remain in a form of quarantine in a mother's ward, ostensibly to reduce health risks for the children. If there are no other new mothers in the ward at this time, they may be alone for many months. This as noted above, may not ensure their emotional wellbeing, and may increase their risk of post-partum depression.

**Minorities:** It was observed and often commented that women belonging to religious and ethnic minority groups are often less assertive in the prison environment. This indicates that they may be less likely to thrive in certain areas, such as: being assigned leadership roles (which often come with privileges), making complaints, accessing resources or demanding rights. Actions to address this may be important to avoid discrimination.

**Older women:** In one facility, older women complained that they were sometimes excluded from livelihood opportunities (such as handicrafts) because of staff concerns about health risks related to stress and hypertension. This leaves them with less income and less frequent activity, which may result in a greater risk of depression and other emotional harm. However, our research indicated that welfare staff do tend to pay older women more attention.

**Lesbians:** Some signs of discrimination were evident in the treatment of gay women, and staff appear to take a 'rehabilitative' approach to homosexuality. However we were informed by NGO staff that this has improved in the past few years. In one example of discrimination, lesbian detainees were among some groups of women who were specifically assigned to inadequate sleeping arrangements on the floor in an activity hall. This measure was necessary due to overcrowding, but the group was chosen because this would place them under closer night time surveillance. "Most are openly Tom Boys," said one senior staff member. "If they denounce their lesbian feelings they can go back up." At least one openly gay woman in a visited facility held a leadership position.

## 5. Information and complaints

**Information barriers are a concern among a number of the jails visited, largely due to understaffing and the informal management hierarchy among inmates; however this is an area of promise at the Manila CIW. To prevent abuse and discrimination, information and complaint channels must be made accessible specifically to women, particularly regarding the birth, care and custody of children.**

### Global perspective

*Barriers to information or complaint can block the full spectrum of rights. Therefore, while this area is often given little attention in penal policy, it is important to recognize such barriers from a gender perspective, and the ways in which these may exacerbate and create gender-based harm and disadvantage. Although women face many vulnerabilities in prison, some differently to men, the latest research by DIGNITY suggests that they may be less likely to complain, make requests or challenge authority compared to men, particularly if they have a history of domestic abuse or sexual violence, are from a minority group, or are keen to protect children accompanying them - or if the channels of complaint and request are not within reach.<sup>109</sup> Furthermore, gender-based violence is considered grossly under-reported in broader society because of gendered biases and barriers, and this can be mirrored in places of detention.*

*DIGNITY's findings also suggest that information on complaints procedures, the prison regime and its rules may need to be delivered differently to be fully grasped by different*

<sup>109</sup> DIGNITY, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014.

groups, due to cultural norms. Some women, particularly in countries where they may receive lower levels of formal education compared to men, are less likely to ask questions and pursue information for the reasons given above, or due to their acute anxiety during the admissions period.

There are also such areas, such as information on the welfare and custody of children on the outside, which disproportionately impact women and may not receive adequate attention. Measures are therefore required to encourage information flow between staff and inmates; in particular, welfare officers in prison should be supported and trained to act as personal bridges between female inmates and service providers.<sup>110</sup>

**International standards** on the right to complain of torture and other ill treatment, have your complaint investigated promptly, and to be protected from reprisals, are found in Arts. 12-13 of UNCAT, and standards to combat discrimination against women are found in UNCEDAW. This legally binding international protection is further boosted by soft law standards on information to and complaints by prisoners in Rules 35-36 and 55 of the SMRs (Rules 54-57 and 83-85 (inspections) of the revised SMRs) and Rules 25 and 31 of the Bangkok Rules. However, when assessing the needs above regarding information against the protection afforded by international legal standards, DIGNITY has found that the latter need to be further developed in order to adequately protect women.

Those interviewed commonly believe that dominant gender norms in the Philippines require that women be less assertive than men. These norms were also perceived as more likely to impact (or have a stronger effect on) women from low-income or certain minority backgrounds, women with lower levels of education, and those who have experienced violent abuse – all common amongst female detainees.

DIGNITY observed that while NGOs sometimes provide legal aid and religious groups offer advice and support, BJMP detention facilities do not appear to keep its inmates sufficiently informed, in a way that allows them to exercise their human rights. Interviews indicate that women may often be more likely to rely on information from fellow inmates on their rights, options and problems, rather than approach staff or seek other avenues.

<sup>110</sup> Baker, Jo, *Women in prison: Information vacuums, harms and human rights*, 22 September 2014, <http://www.penalreform.org/blog/women-prison-information-vacuums-harms-human-rights/DIGNITY>, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014

*“Most people are clueless when it comes to the law. But when it comes to demanding rights, women would be more timid than men, generally. Insisting on your rights is a precarious dance in prison.”*

This affects the ability of such detainees to access healthcare, legal aid, or visits and communication with family and children, among other things. DIGNITY spoke with women who, because of information barriers, had made decisions that they regretted, or were not able to claim particular rights. One pre-trial detainee, for example, had chosen to give birth inside a small ill-equipped jail clinic because of rumours that she would be shackled if she were transferred to the government hospital. She was new to the jail, and uncomfortable approaching staff for information, despite her pregnancy. Other detainees reportedly based decisions about the custody of their new-born children with limited information about their options, and on rumours about the Department of Social Welfare (DSW). According to one NGO staff member, inmates have expressed concerns that if they complain or are considered as trouble-makers in detention, their cases might be impacted negatively in court.

*“After my sentence I just want to go home and be with my parents, but I’ve heard that I can’t go back. I don’t know why. Something about security. But I don’t want to ask staff about it.”*

Other than at the CIW, neither staff nor inmates were able to give DIGNITY a clear idea about the official process by which the custody of new babies is arranged and implemented. Answers fluctuated – sometimes within the same facility – on the number of days that children are permitted to stay. Most inmates were unclear about their right to maintain custody while they were in prison, and their future right to gain custody once released, nor about the role and reach of the DSW.

*“I was told that my baby couldn’t stay with me here because of health reasons. Inmates told me the Department of Social Welfare might take custody, and then it would be difficult for me to get him back when I got out. So I asked [my friend] to take him, by cell phone. I got ten minutes. It was OK. Well, it was hard but we understand that it’s a privilege to use the phone. She doesn’t like to visit [here], but I’m grateful. Without her, maybe I’d lose him.”*

Most mothers interviewed had appeared to make decisions affecting their children with insufficient or ad hoc support (often from an overworked duty nurse or welfare officer), at a time in which their levels of anxiety, fatigue and emotional distress were high. Special arrangements, such as home leave or extra telephone allowance, that would help detainees to make these arrangements satisfactorily, do not appear to be common. One prison welfare officer spoke of children “falling through the cracks”, particularly those who already live on the street; others, she said, move between the homes of different

friends. "There are no black and white rules on this," noted a BJMP official. This is not covered adequately in the BJMP policy document on pregnant women.<sup>111</sup>

The Superintendent at the CIW spoke more promisingly of individual treatment plans that are developed by the resident welfare officer with pregnant women, in close coordination with families. This is an approach that should be formalized and expanded on throughout the system.

A number of women interviewed were unsure about the progress of their cases -- although lawyers reportedly are permitted daily access to their clients -- and many felt helpless in the face of long court delays.

There were indications that women do complain by post to authorities outside of the prison, to constitutionally established independent government agencies.<sup>112</sup> These are often also submitted by families or lawyers, since prisoners' letters are reportedly subject to censorship. Inmates also submit complaints to the prison or jail officers, although management attitudes vary. In the correctional institute DIGNITY were able to review organized files of complaints by inmates and responses by staff, along with schedules by which inmates can meet with the Superintendent or her staff to discuss complaints. One warden in a BJMP jail was less constructive in her attitude, referring in a dismissive manner to "professional complainers" and noting with satisfaction that "no complaints have prospered so far". This attitude is not compatible with international standards and good practice. Meanwhile few reports were known of among inmates, staff or NGOs about disciplinary measures that have been taken against staff in recent years, and NGOs reported accountability in the prisons and jails to be relatively low.<sup>113</sup>

It should be noted that although morning Therapeutic Community meetings are used as a way for inmates to air complaints and grievances, most inmates feel comfortable only expressing very minor complaints about their group mates, and it does not serve as a measure of accountability regarding staff.

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<sup>111</sup> Point 15 notes only that "the removal of the child from jail shall be undertaken with sensitivity, proper documentation and only when adequate alternative care arrangements for the child have been identified," while 16 notes that "an infant which was already removed from jail may be brought to its detained mother in the succeeding days."

<sup>112</sup> These include courts; independent government agencies; the Department of Justice; the House of Representatives; or the Senate.

<sup>113</sup> NGO staff had heard only of a warden's transfer, but no other disciplinary measures. The Philippines has not pushed through or taken its torture cases seriously despite the existence of the 2009 Anti Torture Law, which indicates that precedent for complaint is not strong. The 2013 US State department human right report notes for example that the BJMP received three complaints in 2012 alleging inhumane conditions; follow-up reports were confidential and released only to concerned parties. US State Department, *2013 Human Rights Report: Philippines*, 2013.

## 6. Contact with the outside world

**A beneficial visiting environment was indicated in all facilities visited, allowing for frequent, sustained and relaxed contact with family, children and friends. Causes for concern included restrictions on contact with the outside world as punishment, and for new arrivals, and on contact between mother and babies; and the difficulties for women, particularly at the Correctional Institute, whose families live far away.**

### Global perspective

*Visitors and outside contact are vital to the morale and rehabilitation of inmates generally, while also often helping to prepare them for release, and supplying extra food, medicine or other provisions.*

*This can be of particular value to women because of their identities and responsibilities as primary care-givers and family members, and the greater likelihood that they are not economically independent.<sup>114</sup> Research by DIGNITY for example, has indicated that most mothers in detention have an intense emotional and psychological need to stay closely involved with their children, experienced differently to most men, and which significantly impacts their health and wellbeing in prison. This of course is important for children, families and communities themselves too. Meanwhile, since women tend to rely more heavily on outside support to meet their basic needs -- which should but are often not met by the State -- few visits hold a range of implications for their rights. Our research suggested, for example, that those women most vulnerable to abuse or exploitation in prison are often those who do not have support on the outside, and cannot access basic provisions.*

*Yet, there are gendered barriers to outside contact that prison authorities are obliged to help overcome or compensate for. DIGNITY has found that the greater stigma surrounding women and criminality in many societies may result in fewer visits from friends and relatives, which impacts and prevents visits from their children. In countries where women-only facilities are centralized, relatives of detainees may need to travel a great distance from their homes to visit. Yet when women are detained in facilities throughout a country, closer to their homes, they are often housed in makeshift wings that are attached to facilities for men -- and visiting and communications facilities for them may be worse, and considered inadequate for children.<sup>115</sup>*

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<sup>114</sup> Bangkok Rules, Commentary to Rule 23; and UN doc. A/68/340, Report of the Special Rapporteur on violence against women, its causes and consequences, para 52.

<sup>115</sup> Jo Baker, Women in Prison: The Particular Importance of Contact With the Outside World, Oxford Human Rights Hub, November 2014, <http://ohrh.law.ox.ac.uk/women-in-prison-the-particular-importance-of-contact-with-the-outside-world/>

**International standards** on prisoners' right to family life and to maintain contact with the outside world include Art 17.2 (d) of the International Convention for the Protection of All Persons Against Enforced Disappearance (UNCED), Arts 17 of the ICCPR, and Art 10.1 of the ICESCR, while standards to combat discrimination against women are found in UNCEDAW. These provisions are supplemented by the Rules 37 -39 of the SMRs (Rules 58-63 and 68-70 of the revised SMRs), Principles 15 & 20 of the Body of Principles, and the Bangkok Rules 26 – 28. The importance of prisoners' connection to the outside world and family relationships more generally has also been recognized in international law. Under the ICESCR, the family must be given the widest possible protection and assistance, particularly while it is responsible for the care of dependent children. Maintaining family ties during the imprisonment is recognized as an important, positive factor contributing to social reintegration upon release.<sup>116</sup>

BJMP and other jails are distributed across the country, which means that, as with men, women will be held in remand facilities close to home unless their alleged crime was committed elsewhere.<sup>117</sup> This is a positive practice. Yet once convicted, women from across the country will be housed in the central CIW in Manila or a small facility in Mindanao.<sup>118</sup>

*"I love Sundays when many people visit, particularly the families. Even though I don't have visitors it makes me happy to watch others." – Inmate*

DIGNITY met with many women who struggle emotionally and economically because of distance from friends and family, and do not have the support of state-sponsored outreach or assistance programmes, as encouraged by Bangkok Rule 26. One young prisoner – whose mother reportedly travels for three days on a boat each way to visit her, once a year – has repeatedly been denied her request to transfer closer to home in Mindanao, and her requests to find out why have not been answered. Other women had been transferred however, and there are reportedly discussions within BuCor about creating more regional facilities (see Facts & Figures), which – if accessible – would align better with provisions in the Bangkok Rules.

Two of the prisons visited have promising options for 'electronic visitation' by Skype, which can fill this gap to a limited extent, but cannot substitute the value of visits in person. We were told that these were used on request, yet researchers found there to be barriers to

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<sup>116</sup> See Article 17(2) (d) of the International Covenant on the Protection of All Persons from Enforced Disappearance. This was preceded by Article 10(1) of the ICESCR, on the importance of maintaining family relationships in general.

<sup>117</sup> Inmates are also held in the location of their alleged crimes.

<sup>118</sup> BuCor statistics from October 2013 show that more than 60% of the inmates in the Manila-based correctional institute come from outside the capital region, as far as Zamboanga, and Caraga.

their use. These include inmates not knowing about them, while others inform us that they lack the skills to use the computers, feel intimidated by them and/or do not believe that their families are able to access Skype at their end.

Phone calls are allowed once a week in some facilities, and more often in others. One warden noted that she would never revoke calls as a disciplinary measure, but DIGNITY heard of this practice in other facilities, which is a concern and may breach international standards.<sup>119</sup> Inmates must pay for calls using phone cards, which some cannot afford. This, as noted elsewhere, features a gender component and may constitute indirect discrimination in cases where livelihood opportunities and outside economic support are fewer for women than men, and additional support is not provided.

*"I want to call to find out how my baby is doing, but you have to pay and I don't have much budget."*

Our research indicates that visits are generally well managed, with specific needs often met at the discretion of the warden. On average, women in jails can receive visitors for at least three hours on most week days, and for longer with children on Saturdays and Sundays. Visitors are permitted to spend time quite freely inside the prison's communal areas, which includes eating together, and lying down to take naps with children. In the CIW, family can stay for the full length of time on any visiting day, while friends can do so on two days per week. Conditions appear comfortable, dignified, informal and only loosely monitored, commendably allowing women and their visitors close contact and privacy.

*"Seeing their families lifts their spirits in the way that conjugal visits for men can lift theirs." – Welfare officer*

However, separate policies on the age of visiting children vary, and should be improved and systematized, along with outreach to children's guardians and legal representatives, as advised by Bangkok Rules 26 and 28. In most facilities visited, babies and toddlers are permitted just once per week, or on special occasions. New mothers may therefore miss out on crucial bonding time with their babies, which is harmful to both.

*"The most difficult thing? Leaving my children. I have six. Most of us are mothers and some of us have been here a long time, and our husbands left us while we were here. I worry all the time, and I can't think of anything else. I can't sleep."*

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<sup>119</sup> A/RES/43/173, Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment, 9 December 1988, Principle 15.

Direct discrimination was found in the area of conjugal visits, which are allowed for male inmates, but not for women, contrary to Bangkok Rule 27. Two senior staff members commented that they did not have the capacity, and were too worried about new pregnancies to facilitate this.

DIGNITY is also concerned at restrictions on visits and phone calls as a disciplinary measure, and for new arrivals.<sup>120</sup> “Here it’s very difficult to have communication with family, to ask for that,” said one new arrival, confined to her cell. “But I know that they’re still waiting for me, so I try.” All facilities make efforts to forge contacts with community organizations and activities, and this is well formalized as a guideline in the CIW.

## 7. Work, education and recreation

**Commendable efforts to keep women busy and engaged were observed as part of a structured welfare programme; yet a lack of facilities, funding and staff made this a challenge to implement fully and formally, and livelihood programmes are less lucrative than those for men.**

### *Global perspective*

*Every inmate needs purpose and stimulation to stay healthy, and cope with the monotony and distress of prison life. Many prisons are accordingly strengthening their programmes for work and education, as required by their human rights commitments and rehabilitation goals. Yet these may not be equally accessible or suited to women, whether because of safety concerns, the capacity of the prison, or bias and gender blindness among staff. This can lead to harmful and discriminatory consequences for female inmates. Research by DIGNITY has revealed that this is a priority issue for many women in detention, and a key gap.<sup>121</sup>*

<sup>120</sup> In the CIW a memorandum had been issued forbidding prohibition of family contact as a disciplinary measure, or for new arrivals, noting that “women have a very strong need for regular contact with their families, especially if they have children outside prison,” and that such action would be “an extreme form of punishment on women, while also punishing their families.”

<sup>121</sup> DIGNITY, *Women in Detention: Needs, Vulnerabilities and Good Practices*, DIGNITY Publication Series on Torture and Organised Violence No. 7, by Jo Baker, Therese Rytter and DIGNITY, 2014.

*Women detainees are often provided with fewer, poorer and less varied programmes than male detainees.<sup>122</sup> This may have harmful implications for female prisoners’ health and material needs in prison, as well as their rehabilitation and preparedness for release. In many cases female inmates are in even greater need of income or skills training because of the caretaking responsibilities, stigma, abandonment and financial difficulties and dependence that they commonly face as women. Our research has also found that certain groups of women, such as foreign migrants, pre-trial detainees, and mothers who have children with them in prison may be further barred from activities and opportunities. This study therefore emphasizes that in order to protect the rights of women in detention and prevent discrimination prisons must design and deliver programmes – which include life skills of particular use to women, such as financial management or primary healthcare – that have women, and different groups of women, in mind.*

**International standards** on the right to work, education, recreation, and protection from forced labour, can be found in Arts 6, 11, 13 and 15 of the ICESCR, Art 8 of the ICCPR, and Arts 10, 11 and 13 of UNCEDAW. This legally binding international protection is further boosted by soft law standards relating specifically to prisoners in Rules 71 to 78 of the SMRs (Rule 4, 23, 64-66, 96-105), and Bangkok Rules 37 and 42.

Prison systems for women in the Philippines place strong focus on handicraft production to boost both inmates’ morale and income. Women in the facilities visited tend to earn P1-200 (USD2-4) per week, and this amount will depend on the prison’s location and connection with buyers. Although this can sometimes make them higher earners compared to male counterparts, the technical work available to male inmates, such as carpentry and metal work, often provides a better and more stable income. It is also questionable whether there is a system of equitable remuneration, as required by the SMT Rule 76, for both male and female inmates.

<sup>122</sup> For example, there may not be the staffing or expertise to allow separate classes for a female minority or to transport women to and from mixed classes; or there may also be a prevailing belief that teaching women is less important, or that only specific (often low income) tasks such as tailoring are appropriate. Women may have lower access to the recreational spaces or facilities offered to men. For example, in the European Committee for the Prevention of Torture’s 2010 and 2008 concerning Malta, the UK and Ireland the committee points out among other issues that women prisoners are still offered a limited selection of work activities compared to the male prisoners (paras 16, 29, 51). In its reports from 2009 concerning Austria (para 83) and Hungary (para 67) the CPT finds that female prisoners are offered less out-of-cell time. See also the report of the UN Special Rapporteur on Violence Against Women, *Pathways to, conditions and consequences of incarceration for women*, UN Doc. A/68/340, 21 August 2013, paras 67-68.

We were informed that the livelihood programmes empower many of the female participants by allowing them to provide their children with an allowance for school when they visit.<sup>123</sup> A promising micro-savings system has also recently been taken on in a few women's jails, and the CIW, to allow them to enlist in the Social Security System for informal workers, and may be rolled out to other institutions.<sup>124</sup>

There are growing efforts to bring a vocational training and education elements element into prison rehabilitation, although staff note that this depends largely on the warden. "If the Warden has more trainings on security and is former military, or was a graduate of the Police Academy, then these kinds of welfare and education activities are not his priority," notes one NGO staff member. "Most of the jails where there are good education and welfare activities, and the TC Program, are either women wardens or those who are graduates of Social Work, Psychology or Nursing." Vocational trainings encountered during research were limited mostly to traditionally 'womanly' activities such as sewing, baking, massage and pedicure skills, but did also include computer training.

Efforts to promote education are also notable, such as in Quezon City jail women's dormitory, which recently saw its first classroom constructed. Formal education classes, where provided, cater from basic to high school levels;<sup>125</sup> however, materials and staff are very short for both vocational and education courses, say staff. Some facilities successfully apply to the Department of Education for teachers, others rely on volunteers or inmates. Meanwhile, one teacher working at the CIW explained that inmates have a choice between livelihood trainings or education, and that because income is so important, enrolling inmates into the latter can be difficult. This is an unfortunate and ill-advised barrier. However importantly, as a good practice, the administration tries to encourage this by rewarding it with 'good conduct' time deductions from sentences.<sup>126</sup>

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<sup>123</sup> Items include beaded crafts, candle and soap making and crocheting. The administration provides the materials (at a price), allocates time for livelihood work in daily schedules, and often helps inmates set up sales opportunities. However the process is informal, and inmates rights within it are unclear. Some inmates outsource their work to those who can't afford to buy the materials themselves. One woman complained that craft supplies from visitors were banned, and that the prison was too concerned with profit.

<sup>124</sup> The AlkanSSSy micro-savings programme makes use of cabinet-like 'piggy banks' to help members save the needed P312 per month. Inmates can deposit 10 pesos per day or 300 per month into the coin bank, situated in the jail's offices. See more in the parallel section (prison regime) in our main study.

<sup>125</sup> In the CIW, statistics in October 2013 indicated that while under 2% of women are illiterate, approximately 20% attended elementary school, 40% attended high school; and 30% attended college. The dominant job description (18%) was as a business woman; with 15% jobless, 12 vendors; 6% housewife, and 6% housekeepers or caretakers, among others.

<sup>126</sup> In one prison this amounted to around 25% of inmates, with 20 on the basic learning course, 8 in elementary and 27 in high school.

*"They're thinking, I'm here so I must earn a living, and not burden my family. We tell them no, it's your job to learn."* — Prison education personnel

Other options for earning included formal employment within the prisons,<sup>127</sup> and working as assistants or 'trustees' for other inmates and staff. The latter is informal and unprotected, though also highly sought after, and although no complaints were made during interviews, it should be carefully monitored for signs of abuse or exploitation. Trustees can earn P30 - 200 (USD 0.7 - 4) per week for washing, fetching and queuing tasks, and assisting visitors. In some facilities, payment for certain tasks such as acting as a messenger for visitors, is saved in a dormitory kitty, with groups decisions made on its use.

In terms of recreation, the larger and better organized facilities make good efforts to keep women inmates stimulated. As well as TCMP-oriented tasks and responsibilities,<sup>128</sup> there is one daily exercise session (often dance or aerobics) and regular festivals or special celebrations, while some wardens were also adept at bringing in outside support. In the CIW in particular there are various interest clubs, including a dance troupe and a music band, and a programme of short courses, ranging from problem solving and computer skills, to social graces, and sign language. In the smaller facilities this was much reduced, but women still reported regular exercise sessions, study sessions and seminars by visiting religious figures. One or two televisions were often visible, and used for a few hours per day. This may be a factor in the higher levels of morale among female inmates, compared to other countries reviewed by DIGNITY during this study.

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<sup>127</sup> Kitchen assistants can receive as much as P3,000 (USD69) per month, say staff, and higher educated inmates may work as paid clinical assistants.

<sup>128</sup> The TCMP system in one prison included a group under the following themes: maintenance, medical, senior citizens welfare, sports and recreation, livelihood, education, paralegal, religion, kitchen work, and housekeeping.

## Annex I



Republic of the Philippines  
Department of Justice  
Bureau of Corrections  
CORRECTIONAL INSTITUTION FOR WOMEN  
9 de Pebrero St., Mandaluyong City  
Tel. no.: 532-1726; Telefax no.: 533-9986

### MEMORANDUM TO:

**DR. EDILINDA G. PATAC – Asst. Superintendent**  
**EPIFANIA B. GARDUQUE – Penal Institution Supervisor**  
**PG III NEIL A. BUOT – External Security-in-Charge**  
**PG III MA. CECILIA N. ALCALA – COG, Female Custodial Force**  
**Internal Security-in-Charge**  
**PG II RENANTE H. HAFALLA – Commander of the Guards, Male**  
**WII ELSA M. MARTORILLAS – ACOG, Subpoena-in-Charge**  
**DRA. LILA A. DACUMA – Medical Officer III**  
**DRA. MERCEDES M. JUSTO – Dentist II**  
**Ms. DOROTHY C. BERNABE – Education Supervisor**  
**MS. HERMINIA S. AREVALO – Administrative Assistant**  
**MS. AIMEE S. AREVALO – Teacher II**  
**MS. JEANEFER M. LLANES – Teacher II**  
**MS. CHERRY HUET – Social Welfare Officer**  
**MS. LUCIA E. SANTOS – Acting Religious & Recreations Officer**  
**MS. ELLEN B. SUMAWAY – Food Supervisor**  
**W1 EDNA T. MIRANDA – Documents Section**

**SUBJECT: REVISED MEMORANDUM ON REINTEGRATION OF REHABILITATION  
PROGRAMS AND PRISON RULES AND REGULATIONS FOR A GENDER-  
SENSITIVE PRISON MANAGEMENT**

**DATE: MAY 9, 2013**

References: 1) United Nations Rules on the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules);  
 2) Handbook for Prison Managers and Policymakers on Women and Imprisonment, United Nations Office on Drugs and Crime (UNODC);  
 3) Guidance Document Bangkok Rules by Penal Reform International and UK Aid.

To realize the objectives of Gender-Sensitive Prison Management the following requisite ingredients have been identified:

- the recognition of the different needs of women;
- a capacity and willingness by prison staff to communicate openly with inmates and a less authoritarian manner;
- skills, such as active listening, patience in explaining rules and expectations;
- awareness of emotional dynamics, and the capacity to respond firmly, fairly and consistently; and
- recognition of the different needs of female prisoners, including those from different cultural backgrounds, and providing programmes and services that address these needs.

Adopting in principle what are appropriate and applicable in the treatment of our female inmates, you are hereby directed, in adherence to international standards in the treatment of women inmates, (United Nations Standard Minimum Rules, Bangkok Rules), to implement the following, in addition to existing rehabilitation programs and prison rules and regulations and memoranda issued by BUCOR Directors, and CIW Superintendents:

#### I. PROTECTION OF INMATES AGAINST ANY FORM OF SEXUAL HARASSMENT, PHYSICAL AND MENTAL ABUSE.

- a. Male custodial and civilian personnel are not allowed to enter the Prison compound except in emergency cases and with approval of the Superintendent;
- b. No inmate shall be brought out of prisons compound without approval Of the Superintendent;
- c. In outside movements like medical referrals, court appearances, or view the remains, inmates shall be escorted by a female and male custodial personnel
- d. Male religious volunteers or Male Pastors, Muslim Imam, Male priests, duly accredited by BuCor, shall be limited in number, for a one day in a month religious visit, with female companions and shall perform religious services only in designated areas the activities to be supervised and monitored by Keepers on Duty;
- e. Implement the standing order of BUCOR Director prohibiting personal services of inmates at employees' quarters; also massage or therapy services to male personnel.

- f. To assist inmates in filing complaints against any employees or fellow Inmates who have committed sexual harassments, physical and mental abuses against them. During the process, inmates shall be protected from any kind of mental and physical torture, threats, ill treatments and other possible harm from any party. All complaints must be acted upon with dispatch, prompt and impartial investigation be made and findings submitted to the Superintendent within 48 hours from receipt of the complaint or any incident report;
- g. During prison tours inside the prison compounds, inmates shall stay in their dormitories; No inmate/s shall be allowed to loiter in any area/s inside the prison compound;
- h. During the mass being celebrated at the Chapel, CIW personnel, their families and other civilians who enter the Prison compound who join the Mass must stay in area/s separate from the inmates in attendance, and must be prohibited from getting near or talking with the inmates;
- i. During special occasions, at the stage area or any other areas in the inner court where male personnel or male civilian visitors may be allowed to participate in or watch the program/s, they are prohibited from mingling or talking with the inmates; they should be seated in areas separate from the Inmates;

#### II. BODY SEARCH OF INMATES:

- a. **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;**
- b. Individual inmates, particularly those subject to medium or maximum Security restrictions, may have to be personally searched on a regular basis to make sure that they are not carrying items which can be used in or which are not allowed, such as illegal drugs;
- c. Male personnel either in the custodial or civilian staff are prohibited from conducting personal searches of female inmates, such as pat down and frisk searches. All searches on women should be carried out by female staff only;
- d. In exceptional circumstances that intimate body searches are required or necessary, they should be carried out by the Medical officer, female nurses or female staff in a private room. No inmate should be humiliated and be required to strip completely during the search;
- e. **Staff should also demonstrate sensitivity when searching infants of mothers in prisons and children visiting female inmates.** During the searching of infants and children (such as underwear, baby food, feeding bottles, diapers, etc) care should be taken to cause minimal distress to the child and mother and to act on it in compliance with hygiene rules;
- f. Inmates shall never be allowed to conduct searches on their fellow inmates and their visitors;

- g. ***Custodial personnel shall demonstrate competence, professionalism and sensitivity and shall preserve respect and dignity when searching both children in prison with their mother and children visiting their mothers in prison.***

### III. RESTRAINTS:

- a. Instruments of restraint should always be used as a last measure and for the shortest possible period of time. They should never be used as punishment;
- b. ***The use of restraints on pregnant women during medical examinations, transport to hospital to give birth and during birth shall never be allowed;***
- c. Security personnel are hereby tasked to adopt other means of restraints or other security measures to be used during medical referrals or examinations, transport, birth and court hearings;

### IV. DISCIPLINARY ACTIONS:

- a. Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered prisons community life;
- b. Strictly prohibited as punishment for disciplinary offenses are corporal punishment, confining inmate/s in a dark cell, and all cruel, inhuman or degrading punishments;
- c. Punishment by close confinement or reduction of diet shall never be allowed under any circumstances;
- d. The same shall apply to any other disciplinary action that may be prejudicial to the physical or mental health of an inmate;
- e. The Medical Officer shall visit daily inmates undergoing such disciplinary punishments and shall advise the Superintendent or in her absence her Deputy if she considers the termination or alteration of the punishment necessary on grounds of physical or mental health;
- f. Solitary confinement is strictly prohibited. Disciplinary segregation shall be used only as a last resort for all inmates and for the shortest possible period of time. Prison officials and staff should demonstrate sensitivity to the distress caused by isolation on female inmates, the particular risk of self-harm and suicide among women, and use this measure only in exceptional circumstances;
- g. ***Punishment by close confinement or disciplinary segregation shall not be applied to pregnant women, inmates with infants and breastfeeding mothers in prison;***
- h. Disciplinary sanctions for inmates shall not include a prohibition of family contact, especially with children. Women have a very strong need for regular contact with their families, especially if they have children outside prison. Total

prohibition of contact between women prisoners and their families would constitute an extreme form of punishment on women, while also punishing their families, including their children. Such a prohibition would clearly not be in the best interests of the children involved, violating provisions of the CHR.

### V. INMATES ACTIVITIES AND PROGRAMS:

#### 1. WORK

- a. Prison labor must not be of an afflictive nature;
- b. All inmates shall be required to work, subject to their physical and mental illness as determined by the Medical Officer;
- c. Sufficient work of a useful nature shall be provided to keep inmates actively employed for a normal working day;
- d. So far as possible the work provided shall be such as will maintain or increase the inmates' ability to earn an honest living after release;
- e. Vocational training in useful trades shall be provided for inmates able to profit thereby;
- f. Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, the inmates shall be able to choose the type of work they wish to perform;
- g. There shall be a system of equitable remuneration of the work of inmates.
  - under the system inmates 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;
  - the system should also provide that a part of the earnings should be set aside by the administration so as to constitute a savings fund to be handed over to the inmate/s on her release;

#### 2. EDUCATION AND RECREATION

- a. Programs shall be made for further education of all inmates. The education of illiterates and young inmates shall be compulsory and special attention shall be paid to it by the administration;
- b. So far as practicable, the education of inmates shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty;
- c. Recreational and cultural activities shall be provided for the benefit of the mental and physical health of inmates;

### 3. **PHYSICAL EDUCATION AND SPORTS**

- a. Engaging in physical activities and, where possible, training in sports of inmates are simple and effective ways of preventing the development of psychosocial disabilities such as depression, while maintaining physical health and encouraging team work.

### 4. **HEALTHCARE**

- a. The medical officer shall see and examine every inmate upon their commitment or admission and thereafter, as necessary with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of inmates suspected of infections or contagious diseases, recording of physical or mental defects which might hamper rehabilitation; and the determination of the physical capacity of every inmate for work;
- b. The medical officer and staff shall have the care of the physical and mental health of the inmates and should daily see all sick inmates, all who complain of illness, and any inmates to whom her attention is specially directed;
- c. She shall report to the Superintendent whenever she considers the physical or mental health of the inmate will be seriously affected by the continued confinement and will thus recommend the grant of executive clemency;
- d. Outside referrals be it in government or private hospital must have the approval of the Secretary of the Department of Justice which must be obtained by recommendation thru BUCOR Director; The approval must be renewed every after six (6) months;
- e. The Medical Officer shall also endeavor to make programs available for the comprehensive HIV prevention, treatment, care and support for our inmates;
- f. The Medical Officer shall also provide specialized programs for female substance abusers;
- g. The Medical officer shall develop strategies to prevent suicide and self-harm and to provide gender-specific and individualized psychosocial and psychiatric report to those at risk need to form a comprehensive element of mental healthcare in prisons. She is to coordinate with NBP doctors for assistance by their Psychiatrists;

### 5. **RIGHTS TO COUNSEL OR LAWYER'S VISIT**

- a. An inmate shall be entitled to communicate and consult with her lawyer;
- b. She shall be allowed adequate time and facilities for consultation with her lawyer;
- c. The right of an inmate to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with her legal counsel

may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order;

- d. Interviews between the inmate and her legal counsel maybe Within sight, but not within the hearing, of prison staff;

### 6. **CONTACT WITH THE OUTSIDE WORLD**

- a. Inmates shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and receiving visits;
- b. 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 staff of CIW in the task of social rehabilitation of the inmates. There should be in connection with our Social Welfare Officer charged with the duty of maintaining and improving all desirable relations of an inmate with 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 the inmates;
- c. Special attention shall be paid to the maintenance and improvement of such relations between an inmate and her family as are desirable in the best interest of both;
- d. Disciplinary action shall not include a total prohibition on family contact;
- e. Newly arrived inmates will not be deprived of family contact. They shall be allowed to be visited by immediate family members for a maximum of three hours most especially if the visitors came from far away places;
- f. **In maintaining family links** – It is a good practice to allow longer visiting hours if the visitors have to travel a long distance.
- g. Visiting area must maintain an atmosphere allowing more privacy and intimacy particularly important for visits with all the family including children;
- h. The Prison administration must encourage visits to female Inmates, and where possible assist with transportation, especially where visits to mothers are concerned, Never charge for prison visits;
- i. The Social Welfare Officer is tasked to coordinate with social services and NGOs to assist with contact between women inmates and their families;
- j. Extend the length of visits when families confront difficulties in visiting due to the long distances involved, lack of resources and accommodation for families traveling a long way, free-of-charge;
- k. Children may be tired and restless during visits, especially if they have traveled long distances and have to wait for extended periods before they can see their mothers. Staff should show understanding;

- l. **Contacts with the community** – One of the most important and useful ways of maintaining links between inmates and the outside world, is enabling community participation in the daily activities of inmates, as far as practicable. In this way, life in prison can be brought closer to resembling normal life, while the burden on prison authorities in fulfilling their obligation to provide a varied and balanced regime, as well as other services, is lightened. Involving the community in prison activities is also a good way of increasing public awareness about prisons and encouraging public support to efforts made by prison authorities to improve the quality of prison administration and services provided to inmates.

## 7. PREPARATION FOR RELEASE AND POST-RELEASE SUPPORT

- a. To carry out programs for the successful re-entry of inmates to the community which is one of our objectives;
- b. To coordinate and seek the assistance of Probation Office, Department of Social Welfare and Development and NGOs to design comprehensive pre- and post release reintegration programs for women;
- c. The Minimum Security Compound is designed similar to an open prison or halfway house to ease the transition of minimum security inmates from prison to liberty.
- d. Therapeutic community must maintain sustainable programs to inmates with history of drug use or abuse which are comprehensive and integrated approach to treatment in prison and the community;
- e. The Psychologist, Social Welfare Officer and the Reformation Officers are tasked to provide continued support to women with history of abuse and domestic violence. They are directed to keep and maintain list of inmates known in these categories, stating the programs of rehabilitation implemented or their participations in the rehab programs in preparations to their release; They must be ready to provide the data once the prison authorities or other parties, government or NGOs' request for data or information;

## 8. PREGNANT WOMEN AND WOMEN WITH CHILDREN IN PRISON

- (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 their mother, their location and custody of 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 requirements to take into account the best interests of the children.***

- a. There shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practical for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate;
- b. Where nursing infants are allowed to remain in prisons with their mothers, provision shall be made for a nursery where the inmate mothers could stay with the infants for one year. The Nursery should be placed in a facility ideal for nurturing the child or children without compromising security;
- c. The children should be provided with ongoing good quality primary health care services and their development monitored by a Psychologist and specialists in child development (on Regular visits from community healthcare services). Mothers should be provided with the maximum possible opportunities to spend time with their children.
- d. The Medical Officer shall collaborate with health clinics for vaccinations and periodic examinations of children for administering their vaccinations and monitoring their physical development.
- e. The child may stay with the mother for a period of one year and may be extended if advantageous for the welfare of both mother and child. After said period, the child will be placed under the care of relatives or in an orphanage if no relative would come to take care of the child.
- f. The Social Welfare Officer shall see to it that the mother and child shall have continuous communication and periodical visits of the child to the mother arranged, providing financial assistance to cover the cost of travel to CIW, with assistance from NGOs.

For faithful compliance.

**RACHEL D. RUELO**  
**Superintendent IV**

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