

Research Report on the Treatment of Women Detainees in China—Using the Bangkok Rules as the Starting Point of Analysis¹

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Part 1. Introduction

On December 21, 2010, the 71st General Assembly of the United Nations adopted Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). This series of international standards for the treatment of prisoners aims to further push forward the treatment of women offenders in custody and expand the scope of application of non-custodial alternative measures to raise people's awareness and improve the standard of treatment of female detainees from a perspective of gender-based equality.

This study centers on the treatment and protection of the rights of women in custody. It uses a variety of empirical research methods, and carries out relevant research on rules and regulations that relate to the Bangkok Rules. The main purpose of this study is to uncover the realities of the treatment of female detainees through limited data.

In terms of research content, this study only pertains to issues concerning the treatment of female detainees as discussed in the Bangkok Rules. Due to the limitations of paper length, research time, resources, and other constraints, this study does not perform special research on the other subject of the Bangkok Rules, i.e., “non-custodial measures for women offenders,” except insofar as this was touched upon during research on the treatment of women incarcerated in places of detention.

In terms of the subject of the research, the so-called “female detainees” in this study specifically refer to two criminal-justice groups: those who have yet to be convicted [“unconvicted”] and those who have been convicted, wherein detention specifically refers to the deprivation of liberty in criminal justice, including stipulations in China's Criminal Procedure Law (CPL) for detention, arrest, and offenders serving sentences in prison after conviction, but does not include administrative and preventive measures for deprivation of liberty.

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This paper examines samples taken from five female custodial facilities, including two women's prisons and the women's sections of three detention centers, which the authors letter sequentially as A, B, C, D, and E. Rough descriptions of these places of research are as follows: Women's Prison A is located in central China, where in 2012, per capita gross domestic product (GDP) was approximately US\$5,200; Women's Prison B is located in western China, where in 2012, per capita GDP was US\$4,600; Detention Center C is located in China's developed southern coastal region, where in 2012, per capita GDP was approximately US\$20,000; Detention Center D is located in western China, where per capita GDP is US\$3600; Detention Center E is located in south central China, where per capita GDP is approximately US\$8,000. This sampling distribution shows the varying degrees of development among regional areas more comprehensively, and to a large degree is able to show the general condition of female detainees in different regions of mainland China.³

For the methods of research, this paper employs three main empirical research methods: interviews (group and individual), questionnaires, and field observations. In addition, this paper also investigates and consults judicial statistics as a supplementary method. The researchers tried to use a variety of research methods to crosscheck a list of identical research questions and their conclusions. Utilizing a variety of research methods at the same time helps to reduce conclusion biases that appear because of limited sampling selections. The interview subjects include female detainees and custodial people's police. Individual interviews were mainly used to speak one-on-one with female detainees, and interview and survey questions were basically identical. Field observations refer to site visits made by researchers to examine areas in carceral facilities that are relevant to the research topic, especially living areas, work areas or places, kitchens, bathrooms, reception places and so on. The survey included two different questionnaires for custodial people's police and female detainees. During the study, the researchers distributed 500 questionnaires in total, and recovered 458 valid questionnaires. The sampling method for distributing questionnaires to subjects could not be done randomly. The method of selection was to distribute questionnaires to 2–3 selected prison units in prisons with relatively large total

³ Although there are no comprehensive and definitive studies that demonstrate a positive correlation between the degree of economic development and the protection of human rights in criminal justice, economic development has a tremendous impact on criminal justice. The material conditions of detention, people's concepts of civil rights, the number of detention guards, and the quality of law enforcement are all directly affected by the degree of economic development. Therefore, this study uses per capita GDP as the standard for the sample selection, which is a representative sample selection.

numbers of female detainees, and to distribute questionnaires to all [female] detainees in detention centers with relatively few female detainees. The specific prison areas or prison cells where questionnaires were distributed were determined by researchers' selections upon approval of detention administration officers and detainees. Regarding the basic statistics of female detainees in the research sample, there is a more detailed description in Part 4 of this paper, including the charges against them, their marriage status, age distribution, whether they are first-time offenders, and other factors.

The following two shortcomings in the research methods described above may affect the scientific nature of the research conclusions. First, the non-random research sampling: the selection of neither locations nor specific subjects could be done randomly, which may influence the universality of the research conclusions. For example, although we note that, to the extent possible, the selection of research locations was based on different levels of economic development among places of custody in areas that are economically developed, have an average level of development, and are underdeveloped, it was ultimately impossible for researchers to randomly select research locations due to the closed-nature of the research subject. Second, although researchers determined the subjects of the study, the basis for these determinations is not clear and is characterized by typical accidental features rather than random generation. The two shortcomings above remind the reader to be reasonable and appropriately consider the conclusions of the research. When possible, additional research should also continue to further verify relevant conclusions.

This study is divided into four parts. First, we review the basic statistics and main conclusions of previous studies. These past studies provide the essential background for the development of this study, and are also able to further illustrate the new findings of this study. Then, we compile laws, regulations, and policy provisions related to the rights and treatment of female detainees. The various provisions of these texts outline the regulatory framework for protecting the rights and interests of female detainees. Afterwards we enter into the central part of this report, Part 5, which includes issues related to the regulatory framework in judicial practice and the execution situation. The issues selected for research originated from analysis of the content and shortcomings of previous studies in comparison with the main points of the Bangkok Rules. On the treatment of female detainees, we focus on four issues: 1) the rights to physical health and hygiene; 2) marriage and family rights; 3) mental health; and 4) dignity and

privacy protection. The last part of this study is a summary as well as analysis and comments for future improvement.

Part 2. Main findings of previous research

I. The total number of female detainees in China

Whether they are unconvicted female detainees or convicted female prisoners, China implements a strict system of centralized detention through the establishment of specialized women's prisons, the centralized detention of female suspects and defendants, and other initiatives to achieve the absolute separation of men and women in custody. Due to changes in the social mode of production, the depth and breadth of women's participation in social affairs continues to expand, and as women's roles in society quietly change, what has followed is a significant increase in the amount of crime committed by women. According to currently disclosed statistical data, the number of female [convicted] offenders in China showed an increasing trend in recent years (Table 1). The growth rate of the number of female prisoners was significantly faster than the growth rate of all prisoners (Table 2).

Table 1. Statistical Table of Female Prisoners in China, 2003–2011

Year	No. of Female Prisoners	No. of Sentenced Prisoners	% of Female Prisoners
2003	71286	1546130	4.61
2004	75870	1562742	4.85
2005	77279	1558511	4.96
2006	77771	1565711	4.97
2007	78334	1566839	5.00
2008	80951	1589222	5.10
2009	85167	1623394	5.25
2010	90322	1646593	5.49
2011	93051	1656773	5.62

Data source: *China Statistical Yearbook*

Table 2. Growth in China's Female Prisoner Population, 2004–2011

Year	Growth Rate (%)	
	Female Prisoner Population	Total Prisoner Population
2004	6.43	1.07
2005	1.86	-0.27
2006	0.63	0.46
2007	0.72	0.07
2008	3.34	1.43
2009	5.21	2.15
2010	6.05	1.43
2011	3.02	0.62
Overall growth rate	30.53	7.16

Data source: *China Statistical Yearbook*

China has not publicly announced a specific number for unconvicted women in detention, but based on the number of convicted female offenders serving time in prison, it is not difficult to deduce that detention centers must have an increasing trend in the number of unconvicted women detainees. Overall, the number of female detainees in a state of imprisonment and detention in China has rapidly increased over the past few years, which is an important proposition that should be established, and the rate of increase should exceed that of all detainees. The proportion of women detainees has shown an increasing trend.

II. Summary of previous studies

Confronted with a constantly growing population of female detainees, the balance between how to establish and guarantee security in the detention facility, accomplish correctional duties and respect gender differences, and effectively protect the legal rights and interests of female detainees has gradually garnered the attention of theorists and practitioners. To a certain extent, concern about the treatment of and rights protections for female detainees, which is based on gender differences, is essentially a step further in acknowledging and implementing respect for and protection of the concept of human rights in China's criminal justice field. Compared with

the overall protection of the basic rights of prisoners, [concern about women detainees] is more targeted and in-depth.

Since there are some physical and psychological differences between women and men, a woman's commitment to social and family responsibilities is also different from that of men. However, in detention centers and prisons, which are detention and imprisonment facilities that are highly contained, gender differences are often neglected in order to protect the security of the detention facility and the orderliness of corrections procedures, and the same system of regulations and reform standards are adopted for all detainees. This has led to China's long-standing lack of attention to the protection of female detainees' rights and interests, but there are still some scholars interested in the topic who explore and research related issues. Combing through existing studies, China's current research on protecting the rights of female detainees is mainly concentrated in the following areas.

A. Sexual and cohabitation rights of women prisoners

The sexual rights of convicted women are a hot issue that is largely controversial. However, the relatively unified current view is that offenders do not necessarily enjoy the right to a sex life even though they enjoy the right to marriage. This is determined by their special status. Although China's Marriage Law states that spouses have the obligation of faithful cohabitation, when one party has been deprived of their freedom because of a criminal offense, the nature of confinement and imprisonment determines that the objective conditions do not exist to achieve cohabitation during the execution of punishment. The right of women prisoners to enjoy sexual life should yield to the penalty rights of the state. However, since the late 1990s, some women's prisons across the country successively introduced regulations for "special visits," arranging for some women prisoners who displayed relatively good behavior to stay with their spouse for 12–24 hours. Since putting this initiative into practice, it has been subject to a series of doubts and oppositions, and many problems were exposed during the implementation process. One after another, many prisons stopped using the practice.⁴

B. Protection of marriage rights of female detainees

Whether convicted female offenders have marriage rights or not has always been a hot topic, but the Prison Law and other laws and regulations are not clearly formulated. Prisoners are

⁴ Suhong Wang, "Theoretical Foundations and Institutional Arrangements for the Protection of the Rights of Female Offenders in Chinese Prisons," master's thesis, Suzhou University, 2007.

people who lose their personal liberty, so in terms of the freedom to marry, their rights are inevitably restricted. In 1982, the Ministry of Public Security (MPS) issued Detailed Rules on the Disciplinary Work of Prison and Reform through Labor Brigades that provides: "Prisoners in custody or who are released on medical parole are not allowed to get married." Of course, in many years of practice, marriage rights have not been completely "forbidden" for prisoners. Currently, the level of importance attached to the marriage rights of criminal offenders continues to increase. Many prisons throughout the country provide allowances to let offenders obtain a marriage license and even hold simple weddings for them in prison, which in effect acknowledges the existence of the marriage rights of criminal offenders. In 2004, the Ministry of Civil Affairs (MCA) issued an "Opinion Concerning the Implementation of 'Regulations on Administration of Marriage Registration'" that clearly states: "A prisoner applying for marriage registration shall go in person and present a valid ID to the marriage registration organ to apply for marriage registration; a prisoner who cannot present an ID may be issued supporting documents by the prison management department." [The opinion] ended the debate about whether criminal offenders have marriage rights by acknowledging the existence of an offender's right to marry. In practice, however, prisons still have a negative attitude towards the marriage of prisoners. Very few prisoners who meet the conditions for marriage and want to obtain a marriage license actually obtain one. For the majority of prisoners, the right to obtain a marriage license has not been well protected.⁵

C. Protection of privacy rights of female detainees

The right to privacy is regarded as "peaceful territory reserved for the individual in the continuously expanding public space of the community. It is the essential condition for people naturally maintaining their personal independence, equality, freedom and dignity, and engaging in social activities. It is the right for the individual to keep their personal life unknown to others, prohibiting others from interfering and keeping their personal spirit and real life hidden and undisturbed."⁶ However, in order to ensure their security, places of detention and imprisonment such as detention centers and prisons will certainly restrict the privacy rights of female detainees to some extent. For the safety of prison management, video monitoring systems must be installed in detention and prison cells, and their perspectives can cover every part of the entire prison area.

⁵ Ibid.

⁶ Xiaoli Wen, "Comments on Legal Systems with Administrative Openness," *Chinese Legal Science*, no. 2 (2004).

The physical features and health habits of women detainees determine that they have more privacy needs than male detainees. However, due to the limitations of many conditions, such as bathing areas, monitoring systems, and supervisory personnel, female detainees' private physical body will be recorded and stored on video surveillance systems when they take a shower or use the toilet. In situations where terminal access permissions or video surveillance staff are unscientifically assigned, the privacy rights of female detainees could be seriously violated.⁷ Therefore, surveillance cameras should leave some space for the privacy of female detainees and appropriate modifications should be made for the monitoring of daily living. Surveillance cameras should not be installed in bathrooms, showers, and other locations that involve physical privacy. Female guards should serve as video surveillance staff. Surveillance videos should be strictly sealed and only viewed after a rigorous approval process when there is a need for case investigation.⁸

Furthermore, in order to maintain the safety of prison management, prisons, detention centers and custodial people's police often search female detainees' diaries to learn about their trends of thought and to prevent self-mutilation and suicidal behavior. However, from the prospect of the right to privacy itself, the diaries of female offenders should not be searched, and the privacy of their inner thoughts should be protected.⁹

D. Regular gynecological screenings of female detainees

With regard to the gynecological examinations of women, China currently only states in the Women Workers' Health Care Provisions (Health Department Women's Issue [1993] No. 11) that any female worker who enters menopause should receive widespread attention from the community and should be informed about health and hygiene information regarding menopause. All units must conduct a gynecological examination for menopausal female workers every one or two years. Convicted female offenders who are participating in prison labor, should be classified as female workers, and enjoy this benefit. In practice, however, restricted by funding pressures, this provision has not been properly implemented. Female detainees, particularly menopausal women, have not received regular gynecological examinations.¹⁰

⁷ Jianwei Lü, Qimin Tan, and Huazhen Li, "Special Investigation and Research on Protecting the Human Rights of Female Detainees in Detention Centers," *Law and Society* 6, no. 2 (2009).

⁸ Jia Shen, "Study on the Human Rights Protection System for Accused Women in Criminal Proceedings," master's thesis, Southwest University of Political Science, 2008.

⁹ Wang, "Theoretical Foundations."

¹⁰ *Ibid.*

E. Right of female detainees to contact the outside world

The Prison Law states: “a prisoner may meet with his or her relatives and guardians.” However, prisons often restrict visitation to immediate family members and siblings to the exclusion of other relatives in order to prevent offenders from meeting with people with mixed characters and from developing bad habits under the persuasion and direction of harmful relatives—even to the extent that they conspire together to break out of prison and influence and disrupt prison order—and to reduce workload. The Prison Law states that a prisoner may, during the service of his or her sentence, correspond with others. In practice, prisons often limit the communication of prisoners only to immediate relatives and siblings. To prevent the occurrence of illegal collusion or criminal acts, letters written by criminal offenders to people other than the aforementioned must pass through several examination and approval procedures.¹¹

F. Distribution of detention and prison facilities for female detainees

Prison distribution mainly refers to a prison’s geographical location. China now has approximately 700 prisons, of which approximately 70% are not in or are far away from cities and towns above the county level. The proportion of those farther away from medium-sized cities is even greater, and quite a few prisons are located in inaccessible, remote, and desolate areas. The location of prisons in remote areas is even more prominent in China’s central and western regions, such as Xinjiang, Sichuan, Yunnan, Guizhou, and other provinces and autonomous regions. Differences in a prison’s geographical location bring about differences in its protections of the rights of women prisoners. Women’s prisons in relatively good geographical locations more easily attract highly qualified police personnel; find it easier to make use of the social market, raw materials, transportation, and other factors to develop prison production; and have greater contact with society. Thus, in these prisons, many of the rights of women prisoners are better protected. For women prisoners, who are more trusting and dependent upon family ties, it is easier to exercise visitation rights when prisons are located in accessible areas.¹²

G. Psychological counseling of female detainees

¹¹ Ibid.

¹² Ibid.

Unconvicted women in the investigation, prosecution, and trial stages, due to unfamiliarity with litigation procedures and concern about procedural outcomes, will often face an excessive psychological burden and emotional instability due to future uncertainties. At this time, it is easy for them to breed resentment and possibly develop a rebellious mindset that is uncooperative, disobedient, and desperate when dealing with the management of custodial people's police. To alleviate and remove the mental pressure faced by unconvicted women, many things can be done, such as increasing the number of correctional female police, raising the quality of management, changing the management philosophy, improving the management system, and strengthening legal supervision.¹³ The mental health states of convicted female offenders are also clearly undesirable. The trend shows that the mental health of perpetrators of violence is worse than that of non-violent offenders, and the mental health of divorced female offenders is worse than that of unmarried offenders and married female offenders; the higher the education level, the better the state of mental health. The psychological problems of divorced female offenders are particularly serious. The occurrence of psychotic illnesses such as depression and obsessive-compulsive disorder are much higher among these women than among unmarried and married female offenders. This may be because women attach more significance to family. Once the family is broken, there is great emotional damage, resulting in depression, loss of hope for life, compulsive anxiety, absent-mindedness, and other symptoms.¹⁴

H. Protection of property rights of female detainees

At present, the main focus of the issue of property rights of female detainees is the division of property of women who become divorced during their period of detention or imprisonment. With regard to the division of property during divorce, since female detainees are in a state of imprisonment, their spouses take more initiative and will often use the strength of the clan and the female offender's status to pressure her, forcing her to agree to an unfair divorce settlement, or to secretly conduct property transfers, even using "underhanded methods" to hide property. This leaves many female offenders without financial security after divorce. When hindered by their living conditions or economic situation, even if women intend to protect their rights, they do not have sufficient capacity to do so. Detention centers and prisons should actively cooperate

¹³ Lü Jianwei et al., "Special Investigation."

¹⁴ Jing Zhou and Guangming Bai, "Survey on the Mental Health Status of Female Offenders in Detention," *Science of Social Psychology*, no. 1 (2003).

to help safeguard the legitimate rights and interests of women in custody in order to protect the safety of prison management and maintain correctional order.¹⁵

Part 3. Overview of existing legal norms and regulations

I. Segregated custody and management and centralized imprisonment of female detainees

The Detention Center Ordinance and Detention Center Ordinance Implementation Measures both state: “Male and female offenders, adult and juvenile offenders, accomplices, and other offenders who need to be detained separately shall be detained separately.” The MPS Detention Center Grading Evaluation Measures (DCGEM) also state: “Male and female detainees, criminal suspects or defendants and convicted offenders, adult and juvenile offenders, and criminal suspects and defendants in the same case shall be detained and managed separately. Suspects or defendants and convicted offenders, adult and juvenile detainees, persons from the same case, and so on are separately detained and managed. Female detainees are supervised by women people’s police.” For this reason, MPS Recommendations on Further Strengthening and Improving Public Security Supervision Work, issued in 2009, state: “With respect to women and minors, supervising personnel should take full care of their special physical and psychological needs and carry out centralized custody with classification.” The MPS Notice on the Implementation of Centralized Custody and Administration of Female Detainees in Detention Centers states: “Cities above the prefecture level must set up female detention centers or detention areas based on the number of women detainees. Women’s detention areas shall be relatively sealed off and segregated from men’s detention areas. Installed inside the detention areas shall be female people’s police duty rooms, monitoring rooms, conversation rooms, and so on. When there are a large number of female detainees in county-level detention centers, women’s detention areas may be set up.”

Article 39 of the Prison Law states: “A prison shall practice segregated custody and management with respect to male adult prisoners, female adult prisoners and juvenile delinquents. In respect of the reform of juvenile delinquents and female prisoners, special consideration shall be given to their physical and psychological characteristics. A prison shall, with respect to prisoners, carry out separate custody and varied administration on the basis of their types of crimes and punishments, terms of sentences, and reform behavior.”

¹⁵ Wang, “Theoretical Foundations.”

In accordance with the provisions above, female convicted offenders in China currently serve out their sentences in provinces that have separately established women's prisons. In addition, there are some areas for women prisoners within men's prisons. Unconvicted women are uniformly held in women's detention areas within detention centers established in prefecture-level cities.¹⁶

II. Regulations regarding female detainees participating in labor

As an important means of reform, convicted women prisoners participate in appropriate reform through labor. This is an important means of achieving correctional goals. The Ministry of Justice (MOJ) Opinion on the Establishment of Modern Civilized Prison Standards and Their Implementation states: "According to the physical and psychological characteristics of women prisoners and juvenile offenders, appropriate labor will be arranged." The DCGEM states: "When female prisoners and juvenile offenders are participating in labor, appropriate considerations shall be given to their physical and psychological characteristics. Work assigned to criminal suspects and defendants and women detainees must be indoors. When women detainees perform labor, they shall be led and supervised by women police officers." The MPS Administrative Measures of Detention Centers Organizing Labor for Prisoners also state: "Detention centers that organize labor for juvenile and women detainees shall take full consideration of their psychological and physiological characteristics. Work assigned to criminal suspects and defendants and women detainees must be indoors. When women detainees perform labor, they shall be led and supervised by women people's police. Physical inspection of women detainees shall be carried out by women people's police."

For convicted female offenders and unconvicted women, it is important to note that an essential difference exists in the nature of their participation in labor. Article 43 of the Detention Center Ordinance Implementation Measures provides: "In order to advance the ideological transformation of offenders and enhance physical fitness with the premises that safety is ensured and there are no effects on investigations, indictments, and trials, detention centers may organize offenders to perform appropriate labor." According to the presumption of innocence, unconvicted women shall be presumed innocent, and thus are not obligated to accept reform assignments. Their participation in labor is regarded mostly as a physical exercise that alleviates

¹⁶ Mugao Yang, *Chinese Female Offenders: Corrections System Research*, (Nanjing: Nanjing University Press, 2012).

mental stress. However, for convicted female offenders, Article 70 of the Prison Law states: “Prisons shall organize appropriate labor based on personal circumstances in order to help female offenders correct their vices, develop work habits, learn production skills, and create conditions for post-release employment.” This means that for convicted female offenders, labor is an important means of correction. Through labor their vices are corrected, labor skills are obtained, and the foundation is laid for their return to society after the completion of their sentences. Participating in labor is the legal obligation of convicted female offenders; it is an important representation of their acceptance of reform and an important indicator of their level of reform.

Moreover, there are also differences with respect to labor compensation for convicted female offenders and unconvicted women. Article 58 of the Detention Center Ordinance Implementation Measures provides: “Income from the labor production of convicted prisoners is controlled by the detention center and is mainly used for the purchase of labor production supplies, living allowances, and incentives for convicted prisoners and unconvicted detainees.” Article 24 of the MPS Detention Center Prisoner Labor Administration Measures also states: “The labor income of detention centers can be used for the following: (a) improving the food of detainees and rewarding detainees for outstanding labor performance; (b) purchasing equipment, tools, and supplies for detainee labor; and (c) other necessary expenses.” This shows that unconvicted women in China are not entitled to labor remuneration, which of course has a certain relationship with their relatively lower participation in labor. Article 72 of the Prison Law clearly states: “Prisons shall, in accordance with the relevant regulations, pay remunerations to prisoners who participate in labor and implement relevant state regulations on labor protection.” This shows that the labor remuneration rights of convicted female offenders are expressly authorized and protected by law.

III. Escorting female detainees

In 2003, China’s Supreme People’s Court (SPC) issued Escorting Rules for Judicial Police of People’s Courts stating that: “Female defendants shall be escorted by female judicial people’s police. Male defendants, female defendants, and other defendants who are not allowed to ride in the same vehicle, shall be divided into separate escort vehicles.” Detention Center Work Standards state: “When escorting female offenders, female escorts must be responsible for the

daily management of female offenders on the road.” Article 21 of the Detention Center Ordinance states: “During prisoner escort, escort staff must impose tight control and prevent the occurrence of accidents. Restraints may be used on prisoners being escorted. When escorting female offenders, female staff shall be responsible for the daily management of female offenders on the road.” The purpose of these provisions is to protect the personal safety of women detainees during the escort process, which in effect is the implementation of the system of separate and centralized detention during the escort stage.

IV. Daily supervision of female detainees

The Detention Center Ordinance states: “Detention centers shall allocate female staff to manage female offenders.” MPS Prison Administration Bureau Regulations on Detention Centers Informing Detainees of Their Rights and Obligations states: “Female detainees are supervised by female people’s police. Female detainees, juvenile detainees, and sick detainees shall receive proper care.” The DCGEM also states: “Female people’s police shall be allocated to supervise female detainees.” Article 40 of the Prison Law states: “Female prisoners shall be under the direct supervision of female people’s police.” According to the above provisions, in China, both convicted and unconvicted women shall be supervised and managed under the direct control of female prison police, thus fundamentally eliminating the possibility of male prison police directly contacting female detainees.

V. Physical inspections of female detainees

Article 11 of the Detention Center Ordinance states: “Detention centers shall conduct strict searches of the person and their personal articles when admitting a detainee. The detainee’s non-daily necessities shall be registered and stored. Upon release from the detention center, [stored articles] shall be verified and returned or transferred to the prison and reeducation-through-labor organs. Contraband shall be confiscated. If criminal evidence or other suspicious items are found, they are to be recorded on the spot. After obtaining a signature and finger prints from the detainee, these items shall be transferred to and handled by the relevant supervisory organs. Physical inspections of female detainees shall be conducted by female staff.” Article 6 of the Detention Center Ordinance Implementation Measures further states: “When a detention center admits an offender into custody, detention center guards must conduct a strict examination of

their personal items to strictly prevent items that are not conducive to the detention center's safety from entering prison cells. Prisoners shall be questioned at the time of admission and shall fill out a 'Criminal Detention Registration Form.' Offenders must be taken into custody by two or more staff members. Bodily examinations of female prisoners are conducted by female staff." Administrative Measures for Offenders Retained at Detention Centers for Sentence Execution states: "When an offender is taken into custody, a detention center shall conduct a safety examination of their health, person, and property. The offender's non-daily necessities shall be registered and stored. Contraband shall be confiscated. Bodily examinations of female offenders shall be conducted by female staff." According to the DCGEM: "Bodily examinations of female detainees are conducted by female people's police. When women's bodily examinations are conducted by escort personnel, this must be done so by female people's police or female staff."

Article 18 of the Prison Law provides: "When a prisoner is taken into custody, there should be a strict search conducted on their person and personal articles. Non-daily necessities shall be stored by the prison for the prisoner or, with the agreement of the prisoner, be returned to his or her family, and contraband goods shall be confiscated. Women prisoners shall be searched by female people's police officers." The relevant provisions of prisons and detention centers repeatedly stress that upon admission the bodily searches of female detainees shall be conducted by female staff, embodying the degree of importance of this issue.

VI. Location of women's prisons

In 1998, the MOJ and State Development Planning Commission formulated the Prison Administration and Warning Facilities Construction Standards (Trial) that provide: "Juvenile reformatories and women's prisons shall [be located in] provincial capitals or large or medium-sized cities that are easily accessible." In 2010, the Ministry of Housing and Urban-Rural Development and the National Development and Reform Commission formulated the Prison Construction Standards that state: "New prisons shall [be located] close to economically developed, easy-to-access cities or districts. Juvenile reformatories and women's prisons shall [be located in] large or medium-sized cities that are more economically developed and easy to access." The main purpose of this provision is to facilitate family visits for female detainees. At the same time, it is conducive to women's prisons attracting additional outstanding correctional officers.

VII. Construction standards for women's prisons

In 1998, the MOJ and State Development Planning Commission formulated the Prison Administration and Warning Facilities Construction Standards (Trial) that state: "It is advisable that dormitories for male offenders hold 12–20 people and that dormitories for female offenders and juveniles hold 8–12 people." In 2002, the Ministry of Construction and State Planning Commission formulated the Prison Construction Standards that state: "Regarding prison standards for the usable area for prisoners, the area of toilets in women's prisons shall be increased by 0.04m² per prisoner; the area of study areas in women's prisons and juvenile reformatories shall be multiplied by a coefficient of 1.5. The area of solitary confinement cells in women's prisons and juvenile reformatories shall be 80% of the [standard] size." In 2010, the Ministry of Housing and Urban-Rural Development and the National Development and Reform Commission formulated the Prison Construction Standards that provide: "The area of toilets in women's prisons shall be increased by 0.04m² per prisoner; the area of study areas in women's prisons and juvenile reformatories shall be multiplied by a coefficient of 1.5. Each prison dormitory that holds male offenders should not hold more than 20 people; for those holding female or juvenile offenders not more than 12 people; and for elderly, sick, or disabled offenders not more than eight people." The Explanation of Provisions on Prison Construction Standards further clarifies: "Standards for dormitory bathrooms are as follows: Each women's bathroom should be installed with one toilet for every 10 people, one wash basin, and one cesspool and have usable area of 0.42m² per person. The area of study areas in women's prisons and juvenile reformatories shall be multiplied by a coefficient of 1.5." Considering the special physical features of female detainees, the construction standards for women's prisons were amended accordingly in order to truly meet the daily needs of female prisoners.

VIII. Managing communication with female detainees

Article 17 of the Detention Center Ordinance Implementation Measures states: "Guards and police officers shall be familiar with the basic situation of each prisoner under their supervision, including their name, age, gender, ethnicity, main facial features, family situation and address,

main case details, work unit prior to arrest, occupation, whether they have a criminal record, and so on. They shall keep track of prisoners' behavioral patterns at all times through observation, conversation, liaising with case investigators, and other methods. Conversations with and education of female offenders shall be conducted by a female guard or two or more guards." The DCGEM states: "Adopt appropriate supervision methods with respect to the psychological and physical characteristics of women and juvenile detainees. Conversations with and education of female detainees shall be conducted by a female officer or two or more officers." As an effective means of supervision and management, conversation plays an irreplaceable role in easing the mental pressure of female detainees, but in order to avoid accidents, there should be special standards regarding the sex of police officers who carry out the conversations.

IX. Family life of female detainees

Issued in 2011, the MPS Prison Administration Bureau Notice on Promoting Innovative Management Mechanisms in Detention Centers states: "Video visits are being introduced for detainees. In accordance with the principles of convenience for the families of detainees and improved efficiency of detention center work, video visits for detainees are being introduced. For suspects and defendants, detention centers can install one-way video conferencing systems to make it convenient for families to have one-way meetings when they come to the center; criminal offenders may conduct two-way video meetings over the Internet." The DCGEM states: "In accordance with the nature of the detainee's case, circumstances, and behavior in custody, different management approaches should be adopted to establish a scientific management model and enhance management efficiency."

Article 58 of the Administrative Measures for Offenders Retained at Detention Centers for Sentence Execution provides: "Offenders who need to register for marriage or carry out other civil legal acts that must be performed in person shall submit a written application to the detention center. Offenders who leave the detention center to handle their affairs must first obtain the approval of leaders of the detention center and be escorted by two or more people's police." In response to a question regarding how detention centers should handle leave applications submitted in order to carry out marriage procedures by offenders retained for the execution of their sentences, the MPS Prison Administration Bureau said: "Marriage is a citizen's civil right. If an offender who is serving a sentence in a detention center requests to

marry, they shall be allowed to carry out the marriage procedures, but prison safety shall also be ensured. Specific arrangements are handled by local civil affairs departments.”

Part 4. Composition and management situation of female detainees

I. Analysis of current composition of female detainees and their [criminal] causes

Researchers conducted in-depth research into the composition of female detainees in China through questionnaires, comprehensive interviews, and on-site observations among convicted female offenders in Women’s Prisons A and B and among unconvicted women in Detention Centers C, D, and E. The current composition and [criminal] causes of female defenders are analyzed in the following five areas.

A. Alleged offenses

1. Violent crime and non-violent crime¹⁷

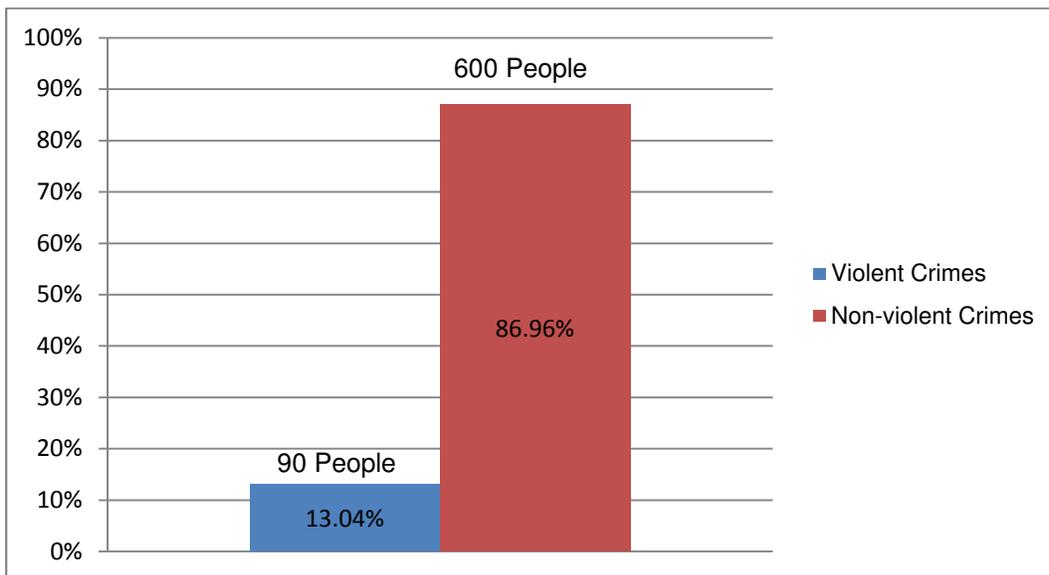


Figure 1. [Female offenders]

¹⁷ Here violent crime includes intentional homicide, intentional injury, kidnapping, affray, organized crime, etc.

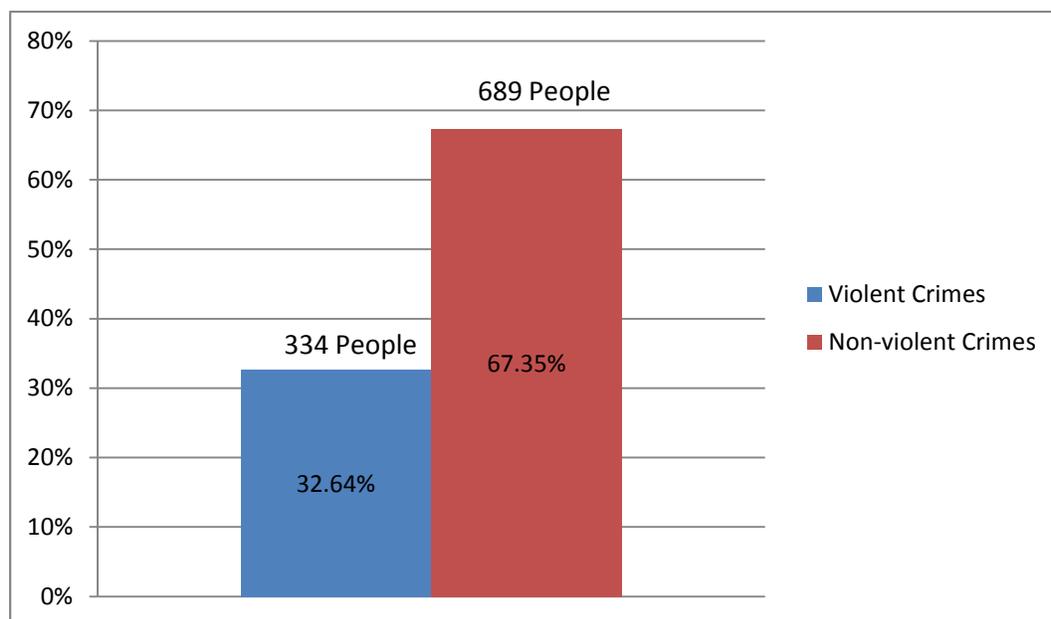


Figure 2. [Male offenders]

Our survey data show that violent crime only accounted for 13.04% of crimes committed by female detainees, while nonviolent crimes accounted for 86.96% (Figure 1). Because of their inherent limitations, women carry out violent criminal acts much less frequently than men. According to our research data, violent crime accounted for 32.64% of crimes committed by men (Figure 2). The manifold reasons female detainees commit violent crimes include: 1) Crimes committed due to domestic violence. These women have relatively little education, a weak concept of the rule of law, and low awareness of women's rights. Once harmed, they often take extreme measures to protect themselves. This was particularly evident in Detention Center D, where intentional homicide and intentional injury crimes caused by domestic violence accounted for 18% of crimes committed by women and 13.33% of violent crimes committed by women. 2) Crimes of revenge caused by an extramarital affair, romantic relationship, cohabitation, neighborhood disputes, or other poor interpersonal relationships. During menstruation, pregnancy, the perinatal period, lactation, and menopause, women will experience autonomic nervous system dysfunction, cerebral cortex motor disorders, and other symptoms, resulting in

irritability and loss of emotional control. If women encounter negative stimuli at this time, they will become easily excited and easily develop a narrow, suspicious, jealous, and paranoid mentality, which induces crime. 3) Amid the culture of violence, crimes committed as a form of thrill-seeking. Women have strong psychological dependencies, poor self-protection skills, and often take hints or cues from people and comply with authority. Women lack their own judgment and the ability to master their own destiny. They easily attach themselves to people who are fond of acting violently and who have faulty moral characters, and under their influence, commit crimes as a form of thrill-seeking.

2. Drug Crime¹⁸

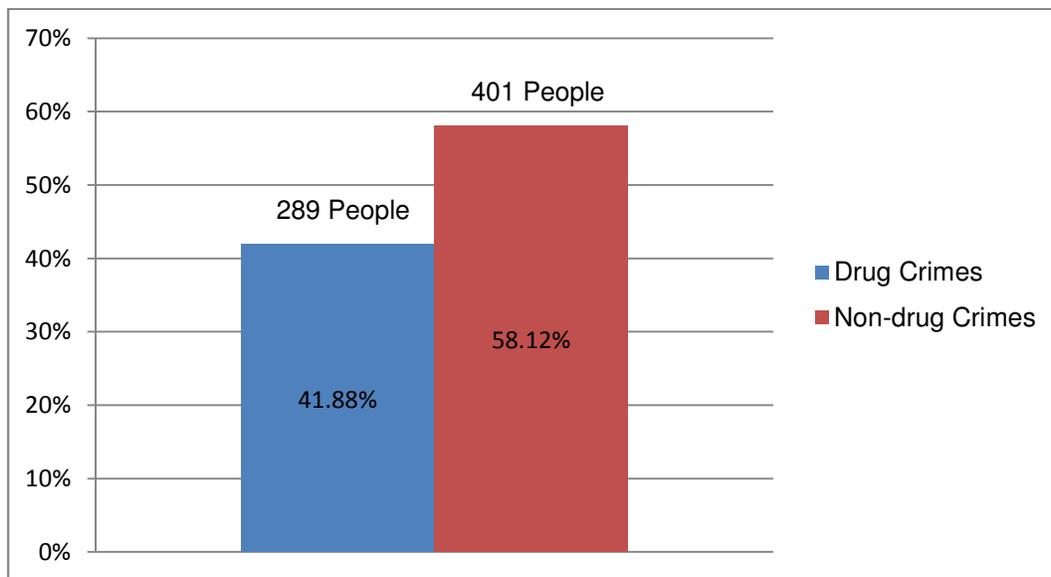


Figure 3.

Our survey data show that ordinary criminal offenses account for a large proportion of crimes committed by women. Among them, drug offenses account for 41.88% of crimes (Figure 3) and 48.17% of non-violent crimes. The situation is particularly serious in Women’s Prison B and Detention Center D, where drug offenses account for 50.66% of crimes committed by women. The incidence of drug crimes among women has remained high mainly for the following reasons: 1) The potential for drug crimes to generate extremely large profits has become the major motive for women to commit such crimes. According to a people’s police officer working at Detention Center D, “Drug profits are as much as 500%. For most indigent people who do not

¹⁸ Here drug crime includes illegal possession of drugs, transportation or trafficking of drugs, sheltering others to take drugs, etc.

have a job or a source of income, this is their shortcut to wealth.” 2) Due to women’s specific hidden and deceptive physical and psychological characteristics and the special provisions regarding pregnant women included in China’s Criminal Law and CPL, a large number of women get involved in drug trafficking activities. 3) The vast majority of women who participate in drug crimes are illiterate or have an education that is below the primary-school level. They often lack awareness about the serious danger of drug crimes and the serious consequences of their behavior and are easily taken advantage of. According to a people’s police officer working at Women’s Prison B, the education situation is very poor because it is located in a mountainous area in rural western China. Women [involved in drug crime], the vast majority of whom are illiterate, rely on trafficking as a means to earn a living. They do not think this is shameful, nor are they aware of the social harm caused.

3. Property Crime¹⁹

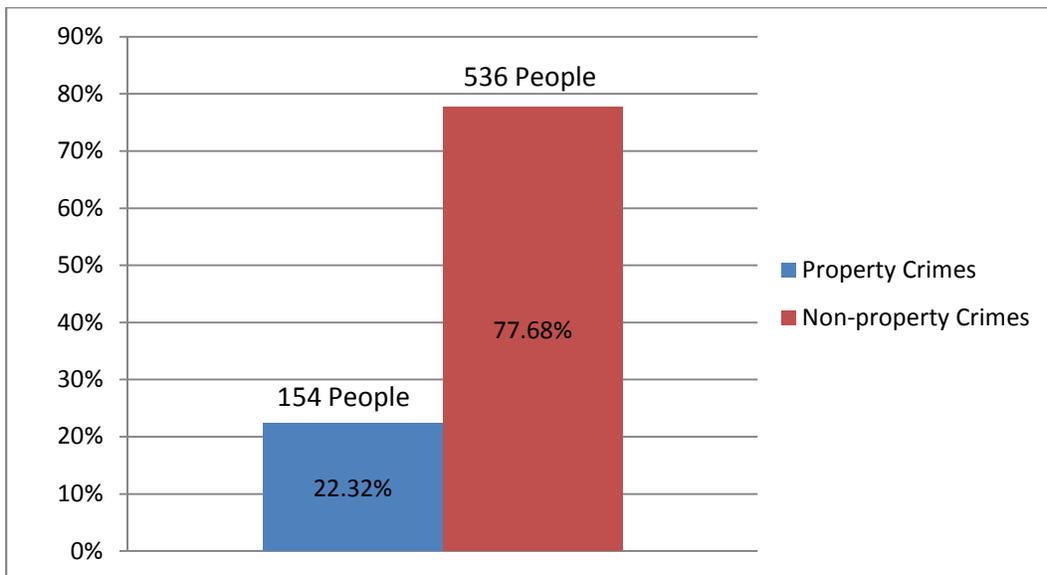


Figure 4.

Our survey data show that property crime accounted for 22.32% of crimes committed by women (Figure 4). Property crimes were particularly prevalent in Detention Center C, accounting for 31.69% of crimes committed by women, second only to drug offenses. The main causes of this type of crime: most women who commit this type of crime are vain, unrealistically competitive with one another, and pursue hedonism. They have a distorted self-centered view of

¹⁹ Here property crime includes theft, fraud, snatching, robbery, illegal fundraising, extortion, illegal absorption of public deposits, etc.

the world, view of life, and system of values. They are indifferent to the concept of the rule of law, frequently engage in wishful thinking, and commit illegal crimes out of desperation. When the demand for material things exceeds the scope of their legitimate earnings, or when they do not have an appropriate means to relieve their own materialistic desires, they often use inappropriate means, such as theft, fraud, and extortion, and their behavior presents itself repeatedly. Such cases are particularly evident in economically developed cities in eastern China. Most are migrant workers who have a lot of work pressure, low wages, and an improper desire for materialism that often encourages them to steal, cheat, or threaten to seize the money and goods of others.

4. Women involved in sex crime²⁰

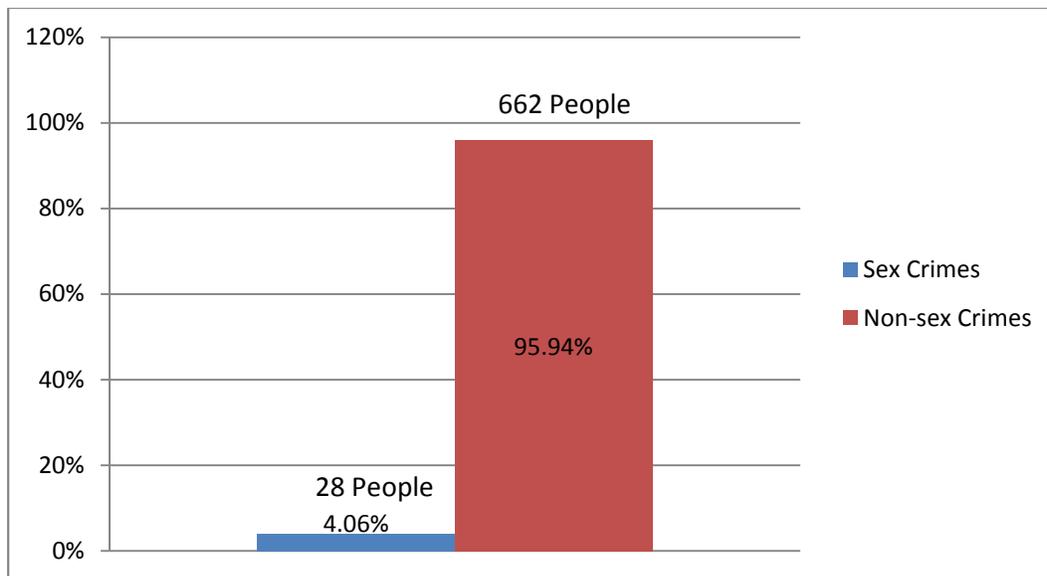


Figure 5.

Our research data show that sex crime accounted for 4.06% of crimes committed by women (Figure 5). Women are involved in sex crimes mainly because of: 1) Adverse effects of the mass media. At present, social media contains a lot of pornographic and obscene junk culture. Women are more psychologically dependent and obedient to authority, and thus are easily affected by the hints and cues of various kinds of media. Some women do not have a proper job or skills to earn a living. They are affected by this social phenomenon and, coupled with vanity and a pleasure-seeking mentality, easily embark on a life that involves sex crimes. 2) Impact of gender

²⁰ Here sex crime includes introducing prostitution, sheltering others for prostitution, assisting in the organization of prostitution, forced prostitution, etc.

discrimination. Due to physical limitations, in today's fiercely competitive society, women are at an obvious disadvantage. They suffer from employment discrimination and have a significantly higher unemployment rate than males. Living in absolute poverty impels them to engage in illegal activities. 3) Strong psychological dependence and poor self-protection skills. Some women do not have a lot of social experience, so their ability to distinguish right and wrong is poor. They easily attach themselves to people of faulty moral character, mistakenly take the wrong path, and are unable to free themselves. After losing their way, they also coerce other women and introduce them into a life of no return.

5. Occupational crime²¹

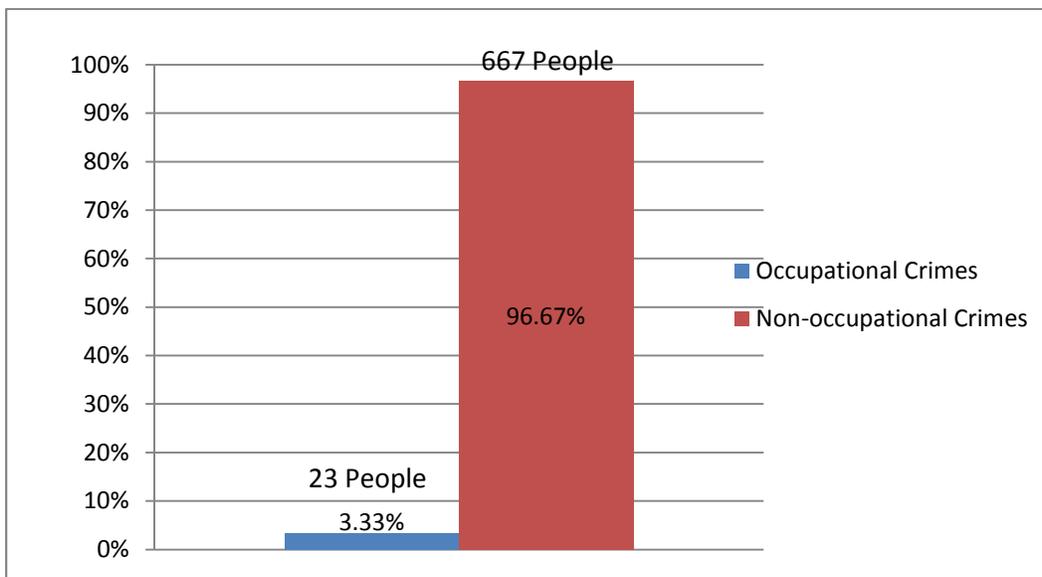


Figure 6.

Our survey data show that occupational crime accounted for 3.33% of crimes committed by women (Figure 6). These crimes mostly involved corruption and embezzlement of public funds, which have a certain connection to the jobs women perform that deal more directly with the handling or management of state-owned property. Since women handle affairs seriously and are meticulous, they hold most of the financial administration jobs in work units. The special nature of such posts provides women with an opportunity to commit crimes by “taking advantage of one’s position.” Most women who commit occupational crime have higher educational achievement. Basically all of the 23 women who participated in the questionnaire have at least a

²¹ Here occupational crime includes corruption, bribery, embezzlement, committing fraud for personal gain, dereliction of duty, etc.

college-level degree. The main reasons women commit occupational crimes are: 1) Among women who commit occupational crimes, many are weak-willed and have a strong sense of vanity that cannot withstand all kinds of temptations. When faced with the temptations of others or negative influences from the outside world, they are unable to resist and overcome and, in turn, develop criminal motivations and begin a life of occupational crime. 2) Women are easily affected by emotions. A large proportion of women commit occupational crime on account of the love and affection between family members. 3) Women are generally accountants or cashiers, rather than the people primarily in charge of work units. Out of blind obedience to their superiors, or pressure from their leaders, they passively become a tool for the leader to commit illegal acts.

Interim summary: In terms of the criminal breakdown, crimes committed by women are no longer simply murder, injury, and property crimes but have further diversified into an increasing proportion of drug-related crime, sex crime, occupational crime, and serious crime, with increasing trends of crime rings and itinerant crime committed by a single offender.

B. Marital Status

Category	No. of People	Percentage
Married	288	62.88%
Single	164	35.81%
Blank	6	1.31%

Table 3.

The survey of a total of 458 unconvicted and convicted women incarcerated in Detention Center D and Women’s Prison B, respectively, shows that 62.88% of women were married and 35.81% were single (including divorced) (Table 3). Among convicted prisoners in Women’s Prison B, 35.86% were divorced. According to a people’s police officer working at Women’s Prison B, “The problem for women in prison is not whether they want a divorce or not, the problem is whether they will get a divorce or not. The majority of female offenders do not want to divorce, but their husbands have the power to take the initiative to do so. In addition, the stability of a female detainee’s marriage strongly correlates to her individual background. Female detainees who are better educated and sentenced to less than 10 years for occupational crimes face less turbulence in their marriages. The most unstable marital relationships are mainly

those of couples who had children while living together out of wedlock, or those who have no fixed occupation or have a low level of education. From the perspective of age, young inmates are more likely to divorce. They often worry about their other half having an affair on the outside, and thus are more emotionally unstable.”

C. Age

Category	No. of people	Percentage
Under 18	9	1.30%
18-30	181	26.23%
30-50	439	63.62%
50 and older	61	8.84%

Table 4.

As can be seen from Table 4, 18–30 year old women accounted for 26.23% of [women surveyed], while 30–50 year olds accounted for 63.62%. Young and middle-aged women (those ages 18–50 in this paper) make up the majority of female offenders. This group of female offenders has a strong capacity to carry out crime, considerable space to do so, and is a serious threat to society.

The reasons women commit crimes vary along with women’s stage of life. Female juvenile delinquents account for only 1.30% of female offenders, but they cannot be ignored. The main reasons for female juvenile delinquency are: 1) Female offenders, due to physical and psychological immaturity, are susceptible to the impact of the external environment and adverse effects of the atmosphere. Many are lured in and used as accomplices. 2) Female minors are affected by unhealthy family relationships. These female juvenile offenders may have parents who divorced when they were children, no discipline at home, and lack family love and care; or, in families with better economic conditions, where there is only one child, they may become spoiled, disobedient, and unruly; or, where the parents work outside the home and children are raised by grandparents, their caregivers may lack the strength to discipline them. People ages 18–30 accounted for 26.23% of female offenders. People in this age group, often referred to as “children of the 80s and 90s,” grew up in a period of great change and social development in China. Their reasons to commit crime are also rooted in that era: 1) Apathy towards morals and responsibility and extreme individualism that leads to crime. During this study, researchers asked [detainees] how they felt about the damage caused to their family and others; most said they did

not give it much thought; 2) Vain pleasure-seeking that leads to crime. 3) Weak-willed, unable to resist the temptation to sin, they get addicted to drugs as a result of bad friends; then the majority steal, rob, commit fraud, and traffic drugs to raise money. People ages 30–50 accounted for 63.62% of female offenders. These women, whether considering the causes or motives of their crimes or criminal behavior, are diverse and complex, and are not easy to classify. Some of the major factors in this group include spousal domestic violence that leads to murder and revenge and greed for money that leads to embezzlement of public funds, fraud, human trafficking, and so on.

D. First-time and non-first-time offenders

Category	No. of	Percentage
First-time offender	412	89.96%
Non-first-time offender	33	7.21%
No response	13	2.84%

Table 5.

The survey of a total of 458 women incarcerated in Detention Center D and Women’s Prison B shows that first-time offenders accounted for 89.96% of detainees, while non-first-time offenders accounted for only 7.21% of detainees (Table 5). Female detainees are mostly first-time offenders, casual offenders, and single offenders. Relatively few female offenders are recidivists and people with criminal records. Most of their offences manifest as involuntary crimes due to a lack of legal knowledge and spur-of-the-moment casual crimes. There were relatively few premeditated crimes, and relatively few women who acted as accomplices, with most accomplices being married couples. The dual superposition of a lack of legal knowledge and the stress of survival causes women to unconsciously enter a life of crime, while the double impact of a mentality of leaving things to chance and coveting wealth contributes to occasional crime.

E. Parental Status

Category	No. of people	Percentage
Has children	290	63.32%
No children	157	34.28%
Blank	11	2.40%

Table 6.

The survey of a total of 458 unconvicted and convicted women incarcerated in Detention Center D and Women's Prison B shows that women with children accounted for 63.32% of detainees, while women without children only accounted for 34.28% (Table 6). Women hold a special place in the family. Any household that lacks a [mother figure] loses warmth and happiness, which causes irreparable damage, particularly to the development of minor children. Cases where women go to prison because domestic violence results in murder and intentional injury [are especially difficult]. On the one hand, most families become trapped in a difficult situation. Children become orphans, losing their parent's love and care and prematurely ending their happy childhood. Some children who are unable to go to school wander the streets and become beggars. Some are even attracted by criminal gangs and are lured into a life of crime. On the other hand, these female offenders who lose the happiness of a married family, are mostly abandoned by their loved ones, and have no one to visit them for many years. When coupled with longer sentences, by the time they are released from prison, they have lost their youth, their children no longer recognize them, they feel that their future is bleak, and as a result lose the confidence to reform.

II. Current status of management of female detainees in China

A. National distribution of women's prisons

In principle, China has separate women's prisons for convicted female offenders to carry out custodial sentences. In exceptional cases, separate women's cell blocks are set up in men's prisons. China currently has a total of 36 women's prisons. Excluding Yunnan with three women's prisons and Jiangsu, Sichuan, Henan, Guizhou, and Inner Mongolia each with two women's prisons, other provinces, autonomous regions, and directly administered municipalities each have only one women's prison.²² Most of these women's prisons are located near capital cities, are easily accessible, and have complete supervision and management facilities. In accordance with Rule 4 of the Bangkok Rules, "women prisoners shall be allocated, to the extent possible, to prisons close to their home or place of social rehabilitation, taking account of their caretaking responsibilities, as well as the individual woman's preference and the availability of appropriate programmes and services." Since China carries out separate, centralized custody of female detainees, it is possible for prisons to be located close to places of social rehabilitation,

²² Yang, *Chinese Female Offenders*.

but for most female detainees, having a place of detention near their home, so they can fulfill parenting responsibilities, is largely impossible.

B. Mechanism of concentrated custody in detention centers

In May 2009, the MPS issued the Notice on the Implementation of Centralized Custody and Management of Women Detained in Detention Centers. This regulatory document improved the system of separate custody and supervision for female detainees and took the initial step to ensure the rights of female detainees. According to the aforementioned notification, China carries out centralized custody of unconvicted women in detention centers at the municipal level or above. Detention centers have jurisdiction over centralized custody in the place of criminal conduct or outcome of the crime. This has, however, given rise to many problems in eastern coastal cities with significant inward migration: 1) local detention center overcrowding, management difficulties; 2) since the detention site is far from the unconvicted woman's place of residence, it is not easy for unconvicted women to contact family and children; 3) release on guarantee pending trial of non-local unconvicted women turns into a "chronic illness" that is difficult to resolve; in Beijing and Shanghai, as many as 70-80% of crimes are committed by [migrants]; in Shenzhen the percentage is as high as 90%.

C. Proportion and existence of women supervisory officers

According to regulations, the minimum allocation ratio of prison police to prison inmates should be 18%, but according to research in Women's Prisons A and B, there is a shortage of first-line custodial people's police who are women, and they tend to be older. (The average age of custodial people's police women at Women's Prison B is 47.5 years old.) According to a female police officer working at Women's Prison B, "During menstruation and menopause, women have mood swings, many physical discomforts, and in addition still need to take care of their family. Keeping to the standard 18% is certainly not enough, the allocation of custodial people's police should be higher than the general average; furthermore, because supervisory female staff have a high-risk job and cannot leave work early, they must work continuously, and there is a lot of pressure. Once when I worked for more than 40 consecutive hours, my cellphone was left outside of the prison, and I could not contact family."

Part 5. Analysis of China's current guarantees of female detainees' rights

Women's physical and psychological characteristics, along with their special roles in society and family, determine that the treatment measures for all detained and imprisoned unconvicted and convicted women should be different from those applicable to male detainees. Only in this way can real gender equality be realized at highly confined detention facilities. It is for this reason that the United Nations General Assembly, in accordance with the Standard Minimum Rules for the Treatment of Prisoners, formulated the Bangkok Rules, to be the guiding document that leads the worldwide promotion of the protection of female detainee's rights. While concerned with the protection of the fundamental rights of women in custody, the Bangkok Rules also focus on the protection of the special physical and psychological rights and requirements that arise because of gender differences, which is an important reference for enhancing China's level of protection of female detainees.

I. Right to physical health and hygiene among female detainees

A. Whether to imprison breastfeeding and pregnant women

The unique role women assume during reproduction determines that pregnant or lactating women not only maintain their own health but also bear the important responsibility of birthing and rearing their children. Measures taken to limit the rights of pregnant or lactating women are likely to affect the growth and development of the fetus and infant. However, detention centers and prisons, because of their high degree of containment, often do not have suitable living conditions for pregnant and lactating women and their babies. In this case, in order to avoid transferring the punishment of detention and imprisonment from the pregnant and lactating women to their fetuses and infants, in accordance with humanitarian principles, it is necessary to give special consideration to the detention and imprisonment of pregnant and lactating women, so as to achieve balance between detention and imprisonment and protecting the rights and interests of pregnant and lactating women and their fetuses and infants.

The bodies of pregnant or lactating women tend to be frailer, but their physical health significantly impacts the growth and development of the fetus and infant. In order to keep detention and imprisonment from inflicting irreparable physical and mental damage to them, the Bangkok Rules state: "Prior to or on admission, women with caretaking responsibilities for children shall be permitted to make arrangements for those children, including the possibility of a reasonable suspension of detention, taking into account the best interests of the children." This

provision focuses attention on concerns for children's rights and interests, because the mother, especially a mother in the nursing stage, plays an important irreplaceable role in the healthy development of the child. Therefore, women not requiring immediate detention and imprisonment shall be allowed to make proper arrangements for their children's lives.

China's existing relevant laws and regulations also provide special care to pregnant or breastfeeding women while carrying out compulsory measures or imprisonment and reform. Their contents can be divided into two areas: first, regarding compulsory measures for unconvicted women, pregnant women or women breastfeeding their own babies generally may not be taken into custody and shall be released on guarantee pending trial, placed under residential surveillance, or subjected to other non-custodial compulsory measures. For example, Article 65 of the CPL provides that "a woman who is pregnant or is currently breastfeeding her own baby, whose release on guarantee pending trial does not endanger society, may be released on guarantee pending trial"; Article 72 stipulates that "in line with the conditions of arrest, pregnant or breastfeeding women may be subjected to residential surveillance in lieu of arrest"; Article 133 of the SPC Judicial Interpretation Regarding the Application of the CPL also provides: "the people's court may alter the compulsory measures for arrested defendants who are pregnant or currently breastfeeding their own children." Article 10 of the Detention Center Ordinance provides that detention centers may not take pregnant or breastfeeding women into custody. This provision means that during the criminal justice process these women cannot be subjected to the custodial measures of detention or arrest, because detention centers, which are the only institutions where such detention can lawfully be carried out, cannot admit them.

Second, convicted female prisoners who have been sentenced to fixed-term or life imprisonment may temporarily serve their sentence outside of prison if they are pregnant or currently breastfeeding their babies. Article 254 of the CPL provides that a woman who is pregnant or currently breastfeeding her own child, if sentenced to fixed-term imprisonment or detention, may temporarily serve her sentence outside of prison. Article 296 of the Procedural Regulations for the Handling of Criminal Cases by Public Security Organs states that "a criminal offender duly sentenced into the custody of a detention center who is pregnant or currently breastfeeding her own child may temporarily serve her sentence outside prison."

On the whole, China does not, in principle, carry out compulsory detention measures on women who are pregnant and breastfeeding and, in general, does not take them in to prison

custody to serve their sentence, but will instead wait for the nursing period to end and then carry out applicable compulsory measures and penalties that deprive the individual of their personal liberty. Compared to the provisions set out in the Bangkok Rules, non-custodial measures in China for pregnant and breastfeeding women have an even broader scope of application. A very important reason for the occurrence of this situation, according to the provisions of Article 19 of China's Prison Law, is that inmates are prohibited from bringing children with them to serve prison sentences. This differs from the provisions of other countries that allow female prisoners to raise children in prison, so in order to protect the rights and interests of pregnant women and women breastfeeding her own baby, as well as the rights of the fetus and infant, China exempts them all from imprisonment.

During this study, researchers found that, on the issue of detention and imprisonment of pregnant women and women breastfeeding their own babies, detention centers and women's prisons throughout China strictly enforce the law and do not imprison such female detainees.²³ According to a custodial people's police officer working at Detention Center D, "For female detainees transferred by the investigative organ, not only is the investigative organ required to perform pregnancy tests as part of physical examinations conducted prior to their transfer, after being taken into custody, the detention center also has to make arrangements for pregnancy tests for female detainees. When a woman is found to be pregnant, an immediate recommendation is made to the investigative body to change compulsory measures." According to a correctional people's police officer working at Women's Prison B, "For convicted women who are pregnant or breastfeeding their own children, the court will generally simultaneously announce the verdict and that the sentence will be temporarily served outside of prison. When female offenders are admitted to prison, prisons must perform another pregnancy test. If a woman is found to be pregnant, the decision to temporarily execute their sentence outside of prison will be made promptly." Therefore, it can be seen that China fully respects and protects the rights and interests of women who are pregnant or breastfeeding their own children, which embodies the humanitarian spirit while implementing criminal procedure and executing punishment. It is worth noting that in judicial practice there are women offenders who abuse the law to escape

²³ The only exception is female offenders sentenced to death with reprieve. Where a female offender is pregnant at the time of sentencing, or it is discovered that she is pregnant after the sentence of death with reprieve takes effect and she is admitted to a prison, women's prisons must continue to carry out confinement in accordance with the CPL, see *Ibid.* 96, and CPL, Article 254.

custody, especially female drug offenders. According to a custodial people's police officer working at Detention Center D, "After admitting one unconvicted woman on suspicion of drug-related crimes, [we] discovered that she was pregnant, and according to requirements, she was released on guarantee pending trial. But after her release, she quickly gave birth and then went to live with her fourth boyfriend. Twenty-eight days after she was taken in to custody upon the expiration of her period of guarantee pending trial, [we] found that she was pregnant again and had no choice but to release her on guarantee pending trial. She now has four minor children with no one to raise them. The court temporarily placed them in an orphanage through inter-departmental coordination."

Surveys and interviews researchers conducted with a total of eight custodial people's police women from Detention Centers C and E also found that women who are pregnant or breastfeeding, in judicial practice, are exempt from being held in detention. This is entirely in line with the conclusions our research group obtained through observation, which further illustrates that, in China, pregnant women and women breastfeeding their own babies are exempt from custody.

B. Access to personal hygiene products, hot water, and nutritional supplements among female detainees

Women's specific physical characteristics determine that women have special requirements for personal hygiene products and hot water during their menstrual cycle and other specific times. Due to their high degree of containment, detention centers and prisons cannot provide the same level of convenience as normal social environments. Therefore, for women who are detained or imprisoned, the adequate supply of personal hygiene products and hot water depends entirely on the level of protection of the detention center or prison. In order to guarantee the need for personal hygiene products and hot water among female detainees is met, Rule 5 of the Bangkok Rules states: "The accommodation of women prisoners shall have facilities and materials required to meet women's specific hygiene needs, including sanitary towels provided free of charge and a regular supply of water to be made available for the personal care of children and women, in particular women involved in cooking and those who are pregnant, breastfeeding or menstruating."

China's current laws and regulations are not well defined regarding female detainees' access to personal hygiene products and the supply of hot water, but according to our research group's

on-site observations, the specific gender-based needs of female detainees have been well-protected. First, with regard to access to personal hygiene products, the most common method for female detainees in China to obtain sanitary towels is by purchasing them themselves in supermarkets operating within detention centers and prisons. Take for example Women’s Prison B, where based on different levels of supervision, female detainees have the opportunity to shop at least once a month and spend up to 200 yuan each time.²⁴ The types of sanitary towels offered in the supermarket are relatively fixed, and the selected brands are moderately priced. The convicted women our research group interviewed said that women can use the shopping opportunity to obtain all of the personal sanitary napkins she needs, and that family members are the main source of funds. For individuals with financial difficulties who are unable to purchase sanitary towels, detention centers and prisons will generally provide them free of charge. These free sanitary towels come from donations made by prison and detention center people’s police as well as from women’s federations, charitable organizations, and other community organizations. Take for example Detention Center D, where in conjunction with local women’s federations, aid is provided to female detainees with family difficulties. The municipal women’s association provides in kind donations of sanitary towels and other personal necessities to those identified by the detention center as individuals who need assistance.

The survey results researchers obtained regarding female detainees’ access to sanitary towels in Women’s Prison B and Detention Centers C and D are consistent with the above conclusions (Table 7).

Table 7. [Survey question regarding access to sanitary towels]

Category	No. of people	Percentage
Yes, but must be purchased	577	96.17%
Yes, provided free of charge	18	3.00%
No	5	0.83%

Although there exists a certain discrepancy with the stipulation in the Bangkok Rules that sanitary towels be provided free of charge, China’s current means for female detainees to obtain

²⁴ Prison B categorizes inmates into strict, general, and lenient control based on sentence lengths, daily performance, etc. Lenient control is subdivided into levels one and two. Different supervision levels afford differential treatment in visitation, shopping, and other privileges.

sanitary towels are adequately guaranteed, and female detainees with personal economic difficulties are given the necessary assistance through social contributions and other forms of aid.

Secondly, researchers found by viewing relevant hardware installed in detention centers and prisons, by interviewing female detainees, and by having discussions with custodial people's police that standards regarding the supply of hot water for Chinese female detainees is currently limited to meeting the demand for drinking water. Showers need to be regularly scheduled by detention centers and prisons, and hot water for daily washing and laundry has yet to be sufficiently guaranteed.

Take for example Women's Prison B, where according to prison regulations, each prisoner can take one thermos of hot water per day, mainly to drink in their cell. During the daytime working hours, an unlimited amount of drinking water can be directly obtained in the production workshop. Showers are taken once every three to four days. While being interviewed, women prisoners reported that the bottle of water the prison provides is able to satisfy their demand for drinking water, but that it is clearly not enough when they have to bathe and do laundry in the winter. The interviews in Detention Center D revealed a similar situation. Each prison cell has two faucets, one for hot water and one for cold water, and showers are taken once a week. According to this detention center's custodial people's police, due to a lack of boiler room equipment, offering hot water throughout the entire day is not possible. They can only offer centralized hot water three times a day during the morning, afternoon, and evening, and the hot water that is provided can only be used for drinking. Because thermoses are considered dangerous, in order to prevent accidents, the detention center prohibits storing thermoses in prison cells. Female detainees, having no containers to collect the hot water, can only drink it when centralized hot water is provided and must use cups to store the drinking water. According to reports from detention center detainees, the hot water supply can meet the demand for drinking, but one cannot use hot water when washing and doing laundry, which is especially inconvenient during menstruation and other special times.

The results researchers obtained from surveys conducted on the issue of access to hot water for female detainees in Prison B and Detention Centers C and D are consistent with the above conclusions (see Table 8 for more details).

Table 8. [Survey question regarding access to hot water]

Category	No. of people	Percentage
Sufficient	245	40.83%
OK	215	35.83%
Insufficient	140	23.33%

The researchers' investigations in the other detention centers and prisons are consistent with reports from the two cases above. From this we can ascertain that female detainees incarcerated in China are currently able to obtain an adequate amount of hot water for drinking; but during menopause and wintertime an adequate supply of hot water cannot be guaranteed for bathing and doing laundry, which can certainly affect women's health. To solve this problem, it is necessary to improve installed hardware and raise the supply capacity of hot water in detention centers and prisons; moreover, it is also necessary to increase attention paid to the special needs of female detainees. They cannot be completely deprived of the ability to store hot water only because there is a certain risk. The thinking and measures of management should be more humane.

C. Specific arrangements for physical examination and medical treatment

Female detainees, as a result of prolonged detention and imprisonment, bear great physical and psychological pressure and are easily prone to health problems. In particular, women with their specific reproductive health needs must be given the necessary gynecological medical examinations. To effectively protect the physical health of female detainees, the Bangkok Rules sets out detailed provisions on the healthcare and personal hygiene of female detainees. The key points include: "The health screening of women prisoners shall include comprehensive screening to determine primary health-care needs, and shall also determine: (a) The presence of sexually transmitted diseases or blood-borne diseases; and, depending on risk factors, women prisoners may also be offered testing for HIV, with pre- and post-test counselling; (b) Mental health-care needs, including post-traumatic stress disorder and risk of suicide and self-harm; (c) The reproductive health history of the woman prisoner, including current or recent pregnancies, childbirth and any related reproductive health issues; (d) The existence of drug dependency; (e) Sexual abuse and other forms of violence that may have been suffered prior to admission" (Rule 6). "1. Gender-specific health-care services at least equivalent to those available in the

community shall be provided to women prisoners. 2. If a woman prisoner requests that she be examined or treated by a woman physician or nurse, a woman physician or nurse shall be made available, to the extent possible, except for situations requiring urgent medical intervention. If a male medical practitioner undertakes the examination contrary to the wishes of the woman prisoner, a woman staff member shall be present during the examination” (Rule 10). “Women prisoners shall receive education and information about preventive health-care measures, including on HIV, sexually transmitted diseases and other blood-borne diseases, as well as gender-specific health conditions” (Rule 17). “Preventive health-care measures of particular relevance to women, such as Papanicolaou tests and screening for breast and gynecological cancer, shall be offered to women prisoners on an equal basis with women of the same age in the community” (Rule 18).

There are a few provisions in existing Chinese laws and regulations related to the health examinations of female detainees. Mainly, in 1988, the MOJ Bureau of Reeducation through Labor issued a notice regarding the National Seminar on Women Prisoners that pointed out, in light of the physical characteristics of female offenders, that necessary medical equipment should be installed, regular medical examinations scheduled, and female doctors allocated. In addition, there are other general regulations on the health examinations of detainees. The Detention Center Ordinance states that detention centers should conduct health examinations upon admission; the Administrative Measures for Offenders Retained at Detention Centers for Sentence Execution provide that, when admitting an offender, a detention center shall perform safety inspections of his or her health, body, and belongings. The MPS Notice on the Standardizing and Strengthening of Detainees Physical Health by Detention Center Management provides that a criminal suspect or defendant, when being admitted to a detention center, must undergo a health examination by a doctor, which includes examination of blood pressure, blood work, ECG, β -Ultrasound, chest X-ray, and so on, as well as questions regarding current physical condition, past medical history, drug allergies, family history, etc. Detention center doctors shall make daily rounds each morning and afternoon, one prison cell at a time, to understand the physical health conditions of detainees. After a detainee is in custody for more than six months, a detention center shall, in accordance with medical examination standards for admission, conduct a physical examination of the individual. Article 17 of the Prison Law provides that “offenders who are transferred for execution of criminal punishment shall be admitted if they conform to the provisions of Article

16 of this law. After an offender is admitted to prison, the prison shall give him or her a physical examination. After physical examination, for those who meet the criteria for temporary service outside prison, the prison may submit written recommendations to the administrative organ of prisons at the provincial level and above for approval.” Article 54 states that: “A prison shall set up medical departments and daily life and hygiene facilities and institute regulations on prisoners’ daily life and hygiene. The medical treatment and healthcare of prisoners shall be included in the public health and epidemic prevention program of the area in where the prison is located.”

Overall, China’s current degree of concern regarding special physical examinations of detained women, in particular gynecological examinations, is clearly insufficient and does not adequately protect the special gynecological examination requirements of detained women. In the course of this study, discussions with custodial people’s police at detention centers and prisons, interviews with female detainees, and on-site observations of the medical facilities in detention centers and prisons also confirmed this claim. According to reports of female detainees, they must undergo a physical examination before they are admitted into a prison or detention center and generally must also undergo one physical examination each year. The examination mainly comprises a blood test, urine test, chest X-ray, and blood pressure check. Female detainees do not, however, receive specialized and comprehensive gynecological examinations.

The data researchers collected regarding physical examinations from surveys of unconvicted and convicted women in Women’s Prison B and Detention Centers C and D show that 40% of female detainees have never undergone specific gynecological health and disease examinations, which is consistent with the information obtained in interviews (Table 9).

Table 9. [Survey question regarding participation in gynecological health screenings]

Category	No. of people	Percentage
Participated once	281	46.83%
Participated twice or more	125	20.83%
Never participated	236	39.33%

In addition, female detainees can usually report any physical discomfort at any time to a custodial people’s police officer to receive treatment in the clinic free of charge. Detained women can be transferred to a hospital for the treatment of major diseases, but costs are meant to be at the women’s own expense. If family members cannot afford the expenses, the prison or detention center will cover the cost.

With regard to the construction of medical facilities in detention centers and prisons, all of the detention centers and prisons the researchers investigated had dedicated medical rooms that were staffed by full-time doctors. For example, the infirmary in Women's Prison C [*sic*] has two full-time female doctors who are specialized in providing medical services to convicted female offenders. In addition, according to custodial people's police officers, after female detainees are admitted to prison, they must undergo a specialized HIV/AIDS screening. Female detainees who are found to be HIV/AIDS positive undergo treatment in a timely manner. Moreover, in order to provide detained women with appropriate medical care, prisons also seek to improve their level of protection through the social security system. For example in Women's Prison A all prisoners participate in the rural area combined administrative system for serious illness which provides funding for the medical treatment of prisoners with serious illnesses.

It is important to note that the Bangkok Rules set the standard for the gynecological treatment of female detainees as the same standard as the community. In China, however, due to socioeconomic development constraints, the community standard for women's gynecological healthcare is itself relatively low, which is an important macro social context for inferior specialized gynecological care for detained women. The Female Worker Health Care Provisions, China's major regulations on the gynecological health care of women, provides that examinations of menopausal women for gynecological diseases shall be conducted once every 1–2 years. Article 33 of the Population and Family Planning Law stipulates that “Agencies involved in planned procreation technologies and medical and clinical agencies involved in planned procreation technology services shall, within their respective scope of duties, produce propaganda and provide education on basic knowledge regarding population management and family planning among people of childbearing age; provide pregnancy tests and visitation services to married women of childbearing age; and provide consultation, educational services, and [information about] techniques for family planning and procreational healthcare.” In addition, some local regulations also touch upon the issue of women's gynecological exams. For example, the Beijing Municipality Implementation Program for the Provision of Free Cervical Cancer and Breast Cancer Screenings to Eligible Women of Registered Households states that, on a voluntary basis, free breast cancer exams shall be provided to women ages 40–60 who reside in Beijing Municipality, and free cervical cancer exams shall be provided to resident women ages 25–65. The above provisions show that, due to large geographical differences, China has yet to

implement free specialized gynecological screenings, cervical cancer, breast cancer and other specialized gynecological disease screenings throughout the country. The situation determines that female detainees cannot enjoy above average treatment in regard to the provision of specialized gynecological exams. Furthermore, because specialized gynecological examinations stipulated under the Female Worker Health Care Provisions only apply to menopausal women workers, coverage is very narrow. Therefore, in order to improve the protection of rights to specialized gynecological exams among detained women, effectively improving the gynecological healthcare for women as a whole is a fundamental requirement. The principle of equality based on that foundation can then truly have significance.

II. Female detainees' right to marriage and family contact

Women, who play essential household roles like wife and mother, bear an irreplaceable responsibility to maintain the family, and as a result, their sense of dependence on family is also stronger than men's. Once detained or imprisoned, women have their family contact cut, and the forced separation can put enormous psychological pressure on female detainees. Their longing for family, especially the concern for their children, will severely affect life during detention. At the same time, as an important bearer of family responsibility, once they are in detained and imprisoned, women's family members can also be seriously affected, especially their minor children. The absence of the mother's role will undoubtedly have serious negative implications for their normal development. With regard to protecting the rights of children of women serving long sentences, we should not only pay attention to the children's right to life, education, and employment, but we should also be concerned about the difficulties, such as mental development problems, that are associated with not having a mother at home.²⁵ Thus, the protection of detained women's rights to marry and retain family contact is not only a protection of the individual rights of incarcerated women. It is also an effective protection for maintaining the family, which constitutes the basic unit of social stability and the healthy development of minor children.

On the protection of the right to marry for female detainees and the right to family contact, the Bangkok Rules establish a number of relevant regulations. These include: "1. The number

²⁵ Chaokai Li and Ouyang An, "Study on the Rights Protection of the Children of Female Offenders with Heavy Sentences in Yunnan and Countermeasures," *The Journal of Yunnan Nationalities University Social Sciences Edition*, no. 4 (2009).

and personal details of the children of a woman being admitted to prison shall be recorded at the time of admission. The records shall include, without prejudicing the rights of the mother, at least the names of the children, their ages and, if not accompanying the mother, their location and custody or guardianship status. 2. All information relating to the children's identity shall be kept confidential, and the use of such information shall always comply with the requirement to take into account the best interests of the children" (Rule 3). "Women prisoners shall be allocated, to the extent possible, to prisons close to their home or place of social rehabilitation, taking account of their caretaking responsibilities, as well as the individual woman's preference and the availability of appropriate programmes and services" (Rule 4). "Disciplinary sanctions for women prisoners shall not include a prohibition of family contact, especially with children" (Rule 23). "Women prisoners' contact with their families, including their children, and their children's guardians and legal representatives shall be encouraged and facilitated by all reasonable means. Where possible, measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes" (Rule 26). "Where conjugal visits are allowed, women prisoners shall be able to exercise this right on an equal basis with men" (Rule 27). "Visits involving children shall take place in an environment that is conducive to a positive visiting experience, including with regard to staff attitudes, and shall allow open contact between mother and child. Visits involving extended contact with children should be encouraged, where possible" (Rule 28). "Prison authorities shall encourage and, where possible, also facilitate visits to women prisoners as an important prerequisite to ensuring their mental well-being and social reintegration" (Rule 43).

In sum, on the protection of incarcerated women's rights to marry and retain family contact, the Bangkok Rules mainly cover the following areas: first, prisons should take the initiative to ask about and record the family information of female detainees, particularly information on minor children, and keep this information strictly confidential; second, women prisoners should be placed in prisons close to home to ensure and encourage members of their family, especially spouses and children, to visit them.

As for inquiring into and paying attention to information related to the family and children, whether it is a detention center or prison, both carry out measures to understand the family situation of female detainees, in particular the situation of children, and provide the necessary attention. The female detainees who were interviewed all clearly expressed that after being

admitted to prison the custodial people's police inquired about their family situation in a timely manner, especially about the care and placement of their children. Discussions with the people's police in detention centers and prisons also verified this situation. According to their reports, the problem of proper placement for the minor children of incarcerated women is currently fairly prominent. The situation is especially problematic when the spouse of the incarcerated woman is also in prison or the woman is a single mother. For example, an interviewee in Women's Prison B told researchers that: "Since the alleged offense was intentional homicide, and because the target of the killing was her own husband and soon after she was sentenced her husband's elderly parents died, and there were no other relatives that could take care of the children, one after another, her three minor children dropped out of school and had to make a living on their own." According to our research, the love and attachment incarcerated women have towards their children and the placement situation of their children play an important part in the emotional stability of incarcerated women.

In order to keep the incarceration of mothers from causing gaps in necessary care that cause the unhealthy development of minor children, detention centers and prisons, while making timely inquiries about the family and children of women detainees, shall actively cooperate with civil affairs and other departments to strengthen the care of and aid to these minors. For example, in 2010, the MOJ, Office of the Central Committee for Comprehensive Management of Public Security, MPS, MCA, Ministry of Finance, Ministry of Human Resources and Social Security, State Administration of Taxation, State Administration for Industry and Commerce, People's Bank of China, Central Committee of the Communist Youth League of China, and All-China Women's Federation issued an implementation plan for the Forwarded Notice by the General Offices of the Chinese Communist Party Central Committee and the General Office of the State Council of the Opinion of the Central Committee for Comprehensive Management of Public Security on Strengthening the Placement and Educational Assistance of Individuals Released from Prison or Reeducation through Labor upon Completion of their Sentences. The plan states that, "At least twice each year, prisons and reeducation through labor (RTL) facilities shall ascertain whether situations such as minor children not attending school, crises in family or spousal relationships, or long periods without visitations exist among persons serving out sentences, and notify the county allocation and assistance offices of the registered permanent residence or place of registration [of persons for whom these situations exist] through the

Information Management System for Persons Released from Prison. County allocation and assistance office in collaboration with the civil affairs department, education department, and township (neighborhood) people's government (office) shall solve schooling problems of the children of persons serving out prison or RTL sentences, help stabilize family and marriage relationships, and mobilize family members to visit. Prisons, RTL camps, detention centers, judicial institutions, and village (community) organizations should actively create conditions; allocate equipment; use video conferencing, telephones, and other methods to create favorable conditions for their detainees' loved ones to visit and for volunteer helpers to carry out help and education and to promote contact between prisoners, their family members, and the community. The Communist Youth League, women's federations, and other organizations should mobilize families and close relatives of people serving sentences to not give up and to actively participate in help and education and should organize volunteers to help the minor children and needy families of people serving sentences. MCA relief agencies that serve vagrant juveniles can provide living assistance to the children of prisoners or RTL detainees if they do not have guardians or if the prisoners or RTL detainees cannot carry out their responsibilities as guardians."

With regard to the protection of the right to family contact, in China the protection of women detainees' right to family contact currently covers the following areas: First, the geographical location of women's prisons. In 1998, the MOJ and State Development Planning Commission enacted the Prison Administration and Warning Facilities Construction Standards (Trial) that provide: "Juvenile reformatories and women's prisons shall [be located in] provincial capitals or large or medium-sized cities that are easily accessible." In 2010, the Ministry of Housing and Urban-Rural Development and the National Development and Reform Commission formulated the Prison Construction Standards that provide: "New prisons shall [be located] close to economically developed, easy-to-access cities or districts. Juvenile reformatories and women's prisons shall [be located in] large or medium-sized cities that are more economically developed and easy to access." The main reason for women's prisons to be located in accessible large and medium-sized cities is to make it convenient for families to visit female detainees since family visits are beneficial to reform. Second, according to researchers' on-site investigation of Women's Prisons A and B, female prisoners can have at least one visit per month, lasting 20 minutes each time. During the meeting, the two parties are separated by a glass partition and

communicate through telephone sets in meeting rooms. Third, female detainees can communicate with their families by making telephone calls. For example, Women's Prison B stipulates that each prisoner, according to different levels of supervision, may make one free family telephone call per month, lasting up to five minutes. Based on interviews with female detainees, the recipients of the calls made to loved ones are mainly parents, spouses, and children.

In contrast, the restrictions on the right to family contact among unconvicted women in detention centers are much stricter. To avoid collusion, in current judicial practice, unconvicted women are not allowed to meet with their families under any circumstances. Therefore, in the pretrial detention stage all female detainees are denied the right to meet with their families. Although detention centers have installed one-way video conferencing systems, our research found that its utilization rate was very low and that female detainees can rarely use this method to see their families. For example, almost none of the interview respondents at Detention Center D had seen their family during their period of detention, but all expressed hope for such visits. In response to this situation, detention centers are actively implementing appropriate measures to the greatest possible extent to satisfy the demand female detainees have to visit with their families. According to detention center people's police, to alleviate a female detainee's unstable emotions due to extreme longing for her family, the detention center once visited her family and recorded digital video clips of her child, then played the clips to the detainee with excellent results. To fundamentally solve the conflict between [allowing] unconvicted women to meet with their families and avoiding collusion, detention centers shall standardize visitation regulations and procedures. For example, the MPS Prison Administration Bureau Notice on Promoting Innovative Management Mechanisms clearly states that "in accordance with the principles of convenience for the families of detainees and improved efficiency of detention center work, video visits for detainees are being introduced. For suspects and defendants, detention centers can install one-way video conferencing systems to make it convenient for families to have one-way meetings when they come to the center; criminal offenders may conduct two-way video meetings over the Internet."

In addition, there are still some gaps remaining between China's current system of centralized custody and imprisonment for female detainees and the requirements of the Bangkok Rules regarding custody near the home, which certainly affects the communication between female detainees and their families. Although China's women's prisons are located in large or

medium-sized cities that generally have more convenient transportation links, because each province often has only one to two women's prisons for the centralized custody of convicted women, families that live in areas of the province that are far away from the prisons face relatively large obstacles in visiting convicted women. In addition, since the practice of sending convicted women back to their place of household registration to serve their sentence has yet to be fully implemented, it is even more difficult for family visits to take place. For example, while investigating Women's Prison B, correctional people's police reported that some prisoners whose household registrations are in other provinces have not been visited by anyone in over 10 years and have been completely isolated from their families. Furthermore, there are also some prisoners whose families face [financial] difficulties and are unable to afford the cost of visitations, causing the prisoner to have no visitors for many years. For example, a prisoner reported during an interview that, after she committed her crime, her three minor children were left at home by themselves. She said it was extremely difficult for them to survive and that they are not in a position to visit the prison. While concentrated custody and imprisonment help reduce regulatory costs and is beneficial to carrying out targeted education and reform, the visitation difficulties it creates require attention and need to be solved.

III. Mental health problems of female detainees

Female detainees, especially unconvicted women, after being deprived of their liberty and detained in highly contained places of custody and imprisonment, will inevitably be under enormous psychological pressure, which coupled with the uniquely sensitive and delicate personality characteristics of women, could seriously impact their mental health. To avoid mental health threats caused by the confinement of female detainees, the Bangkok Rules put forth a series of provisions to improve the mental health of female detainees, specifically: "Individualized, gender-sensitive, trauma-informed and comprehensive mental health care and rehabilitation programmes shall be made available for women prisoners with mental health-care needs in prison or in non-custodial settings" (Rule 12). "Prison staff shall be made aware of times when women may feel particular distress, so as to be sensitive to their situation and ensure that the women are provided appropriate support" (Rule 13). "Developing and implementing strategies, in consultation with mental health-care and social welfare services, to prevent suicide and self-harm among women prisoners and providing appropriate, gender-specific and

specialized support to those at risk shall be part of a comprehensive policy of mental health care in women's prisons" (Rule 16). Based on the aforementioned rules and regulations, during times of detention and imprisonment, necessary mental health services shall be provided for female detainees to prevent them from being plagued by mental illness.

As an important indicator of female detainees' physical and mental health and to ensure the safety of prison management and achieve reform goals, the mental health problems of female detainees are highly significant. "Criminal offenders, a psychologically disadvantaged group in a special stage of re-socialization under the specialized and controlled prison environment, due to the deprivation of liberty, are subject to strict controls and forced to accept things like education and reform through labor, causing their original criminal mind to be stifled and many personal needs to go unmet, which is bound to cause them many negative emotions and a negative mindset. If the negative emotions and negative mindset are not acknowledged and treated in a timely manner, it will affect their ability to accept proper educational reform while serving time in prison."²⁶ At present, the main guiding document on the psychological treatment of prisoners in China is the Guiding Opinion on Strengthening the Psychological Treatment Work in Prison developed by the MOJ Prison Administration Bureau. The opinion points out that prisons shall establish mental health training centers, under the leadership of the Prison Education and Reform Department. In principle, the number of full-time psychological treatment staff at the mental health training centers should be no less than 1.5% of the total prison population [at the prison where it is located] and must not be less than three people. Each prison area (or subdivision) shall allocate at least one prison people's police officer to serve as a full-time or part-time mental-health counselor.

During this study, researchers found that the mental health of female detainees currently attracts widespread attention. In discussions with custodial people's police, all participants shared their experiences of how to provide psychological counseling to women detainees based on their unique mental activity. And during interviews with female detainees, the interviewees all said that they can interact with people's police when they are in a bad mood, and that this kind of interaction is very helpful for relieving mental stress. Moreover, interacting with other female detainees in the same prison can also play a role in easing mental pressure. However,

²⁶ Ruijuan Ma, "Analysis of the Suicidal Behavior of Detained Female Offenders and Its Prevention," *Police Literature*, no. 2 (2011).

compared with the standards set by the Bangkok Rules, there are still some shortcomings in China's current mental health services for female detainees, mainly the lack of professional psychological counseling staff. Although the survey found that some people's police, through self-learning and corporate training, have obtained the appropriate qualifications to be psychological counselors, on the whole, the psychological counseling and education presently available in detention centers and prisons is mostly based on the long-term work experience of custodial people's police. The vast majority of custodial people's police has not received professional psychological corrections training. Detention centers and prisons are not yet equipped with full-time psychologists, but only with part-time custodial people's police who assume the duty of psychologist, which makes it difficult to meet the mental healthcare needs of female detainees.

IV. Personal dignity and privacy rights

While living in detention centers and prisons, in a state of custody and imprisonment, some of the rights of female detainees must be restricted, but the fundamental moral rights of human dignity and privacy cannot be restricted due to changes in the status of personal physical freedom. For women detainees, they are more susceptible to low self-esteem than are men, thus the protection of their dignity and right to privacy needs special attention.

Relevant provisions of the Bangkok Rules on the protection of human dignity and privacy rights of female detainees mainly include: "1. The number and personal details of the children of a woman being admitted to prison shall be recorded at the time of admission. The records shall include, without prejudicing the rights of the mother, at least the names of the children, their ages and, if not accompanying the mother, their location and custody or guardianship status. 2. All information relating to the children's identity shall be kept confidential, and the use of such information shall always comply with the requirement to take into account the best interests of the children" (Rule 3). "The right of women prisoners to medical confidentiality, including specifically the right not to share information and not to undergo screening in relation to their reproductive health history, shall be respected at all times" (Rule 8). "1. Only medical staff shall be present during medical examinations unless the doctor is of the view that exceptional circumstances exist or the doctor requests a member of the prison staff to be present for security reasons or the woman prisoner specifically requests the presence of a member of staff ... 2. If it

is necessary for non-medical prison staff to be present during medical examinations, such staff should be women and examinations shall be carried out in a manner that safeguards privacy, dignity and confidentiality” (Rule 11). “Effective measures shall be taken to ensure that women prisoners’ dignity and respect are protected during personal searches, which shall only be carried out by women staff who have been properly trained in appropriate searching methods and in accordance with established procedures” (Rule 19). “Alternative screening methods, such as scans, shall be developed to replace strip searches and invasive bodily searches, in order to avoid the harmful psychological and possible physical impact of invasive bodily searches” (Rule 20). “Prison staff shall demonstrate competence, professionalism, and sensitivity and shall preserve respect and dignity when searching both children in prison with their mother and children visiting prisoners” (Rule 21).

Because of women’s special physical and psychological nature, the protection of the dignity and privacy rights of women detainees is decidedly more demanding than that of male detainees. On this point, the Bangkok Rules established many protection measures intended to fully protect the human dignity and privacy of female detainees. Combined with China’s current practices in the protection of the dignity and privacy rights of female detainees, researchers mainly investigated the following three components to analyze the achievements and existing problems in the protection of the dignity and privacy rights of female detainees.

A. Sex of staff conducting physical examination upon admission

In accordance with the provisions of the Prison Law and Detention Center Ordinance, all detainees who are admitted into a prison or detention center must undergo a physical examination. In order to avoid injury to a women detainee’s right to dignity when coming into physical contact with the opposite sex, both the Detention Center Ordinance and Prison Law emphasize that the physical examinations of women detainees shall be conducted by women staff. In [our] interviews with women detainees, all respondents said that women staff conducted the physical examinations carried out upon admission to the prison or detention center. There were no instances of male staff conducting physical examinations. For example, although the women’s cell block in Detention Center D has only three female staff, it still guarantees that female staff are on duty 24 hours a day and responsible for the physical examinations of female detainees entering the center.

Questionnaire data researchers obtained on the topic from Women’s Prison B and Detention Centers C and D was largely the same as information collected in interviews (Table 10). However, the questionnaire revealed reports of potential problems that need further verification. For example, about 6% of convicted female offenders and unconvicted women claim their physical examinations were carried out by male staff upon admission, and 8% of respondents reported that they could not remember the details of the physical examination. This feedback is worthy of further validation and attention, because if the information is confirmed to be true, it is a clear violation of the requirements of the Bangkok Rules, a serious infringement on the privacy rights of convicted and unconvicted women, and an action that violates laws and regulations and requires further improvement in systems and procedures to be stopped.

Table 10. Gender of Staff Conducting Physical Examination upon Admission

Category	No. of people	Percentage
Male	37	6.17%
Female	515	85.83%
Uncertain	48	8.00%

B. Positioning and viewing permission of video surveillance cameras

To achieve around-the-clock surveillance of female detainees, all of the detention centers and prisons investigated in this study had surveillance cameras installed in prison cells and workplaces. According to custodial people’s police at Women’s Prison A, the prison’s surveillance cameras are operated around the clock. The custodial people’s police in each prison area subdivision have the permission to monitor the video recorded within the area, and the custodial people’s police in the prison’s master control room have the permission to view all surveillance recordings. The prison’s rules stipulate that only female custodial people’s police can enter the living areas of female detainees and that only female custodial people’s police can browse and view surveillance videos recorded in female detainees’ living areas. At Detention Center D, surveillance videos from both the women’s and men’s detention areas are collected and fed to the control room. According to the research group’s observations, the people’s police who work in the control room are men. Because the bathroom in the detention center is not completely enclosed, certain infringements to the dignity and privacy rights of female detainees are possible.

In addition, in terms of the construction of living spaces for female detainees, some prisons are protecting the privacy rights of female detainees by remodeling their facilities. For example, Beijing Women's Prison installed opaque frosted glass doors and windows in toilets, showers, and other facilities women offenders, so that the prison's surveillance footage of the female offenders in these specific locations all show images of animated silhouettes, which meets regulatory safety needs and also protects the privacy rights of female offenders.²⁷

C. Right to pursue beauty

The pursuit of beauty is common to all. Even though female detainees live in detention centers and prisons, their desire for beauty as women is determined by biological instinct, and this aspiration is mainly manifested in desires regarding clothing and appearance. According to the provisions of the Prison Law, convicted female offenders must wear prison uniforms, and based on reports from custodial people's police, civilian clothes are considered contraband inside prisons; convicted female offenders are only allowed to wear prison issued uniforms. Detention centers permit unconvicted women to wear their own clothing, but they are also required to put on identifiable garments (as outerwear). In addition, women's prisons and detention centers prohibit detainees from wearing makeup, and do not allow cosmetic products other than simple skin care products. Requiring female detainees to wear uniforms helps to maintain the safety of the prison and prevent escape; prohibiting female detainees from wearing makeup assists in their education and reform. However, allowing female detainees under certain conditions to wear civilian clothes and an appropriate amount of makeup, within the context of remaining for long periods in highly contained spaces, will certainly have the positive effects of alleviating psychological pressure and eliminating negative emotions. For example, Women's Prison A allows female detainees to wear their own clothing each year during Spring Festival and other important holidays. The clothes are returned to the prison for safekeeping after the holidays. The practice has received a favorable response.²⁸

²⁷ Changchun Yang, "Study on the Legal Protections of the Privacy Rights of Criminal Offenders," master's thesis, Nanjing Normal University, 2012.

²⁸ There are a handful of women's prisons that practice even more progressive approaches. E.g., starting from a perspective of caring for the psychological needs of female offenders, Shandong Women's Prison takes the idea of humane, flexible management and extends it into prisoners' everyday lives. In focusing on women's sense of beauty, the prison trains prisoners to develop a positive and optimistic attitude towards life. See Yang, *Chinese Female Offenders*, 119.

Part 6. Conclusions

The research in this report on the rights and treatment of female detainees in mainland China under the regulatory framework of the Bangkok Rules is very preliminary. Judging by the selection of the scope and topics of research as well as the research samples, there is both space for and a need for further improvements to this study. Nevertheless, this study made some important findings:

- I. As for status of research studies, academic research on the Bangkok Rules and the protection of the rights and treatment of female detainees is very limited. The research of the few studies that exist is less systematic, lacks overall perspective, and uses outdated research methods. In this sense, promoting relevant systematic research using the framework of the Bangkok Rules is an imperative necessity.

- II. The existing laws and regulations on the treatment of female detainees are scattered and overly simplistic. With regard to the management and protection of the rights of female detainees, special provisions have only been made regarding pregnant and breastfeeding women, separate custody and control, the construction of women's prisons, women's psychological features, and other limited areas. However, most of the provisions were not formulated by law, but rather through standardized regulatory documents which have lower legal status. To a certain extent, this shows that policymakers have limited awareness about the female gender perspective regarding custody and control. Thus, the more deep-seated problem is that policies on optimizing the treatment of female offenders are seriously lacking. Enacted 20 years ago, the Prison Law has limited concern for the problems of female offenders. The Detention Center Ordinance enacted in 1990 also seriously neglects the treatment problems of unconvicted women and for more than 20 years, the policies, laws, and regulations on the management and treatment of female offenders have been quite limited. The central reform plans regarding the judicial system that were recently initiated did not mention reform of the prison system, and improvements to the treatment of female offenders seriously lack policy support.

- III. In terms of statistical data on the composition and distribution of female offenders, there are three problems that deserve a high level of attention: First, in recent years, the proportion of female offenders has shown a rapid upward trend, rising faster than the proportion of male offenders, which creates additional challenges to implementing the requirements of the Bangkok Rules. Second, the reasons that women offenders commit crime have further diversified, but domestic violence and drugs are two issues of particular concern. The management and control of the causes of crime is much more complex and important than protecting the rights and interests of female offenders, which is necessary only after a crime has been committed. Third, women who are married and have children account for more than 60% of female offenders. This relatively high percentage highlights the significance of family and marital problems.
- IV. From a management point of view, the segregation and separate confinement of female and male detainees helps to reflect their differentiated treatment, to raise managerial professionalism, and to protect the rights of female detainees. However, if fewer detention facilities are built specifically for women, corresponding drawbacks can also result that will specifically impact the normal, effective contact and visits female detainees have with family. In addition, there is currently a shortage of female supervisory staff to manage female offenders, and these staff members lack specialized training and experience poor [professional] mobility, high labor intensity, below average benefits, and other problems, all of which have a direct impact on the treatment of female detainees.
- V. As far as the protection of the rights and treatment of female detainees is concerned, overall, in recent years the government has made many efforts to invest and standardize management in prisons and detention centers. The living conditions and treatment of detainees, including female detainees, have all seen enormous improvements, and in places of detention, basic living conditions are being fulfilled. The humane management and level of respect attached to the rights of female detainees have greatly improved. The main shortcomings that currently exist in the treatment and rights of a female detainee's physical and psychological needs still require further refinement and special protection. With social change and the notion of civil liberties continuously increasing and adapting, the protection of the rights and

treatment of female detainees should increase in step. In this area, the more representative aspects include: 1) Taking into account women's unique physical characteristics, aspects such as hot water and diet (with regard to vitamins and dairy products) should be given more consideration; 2) due to the special status of women in the family and their relationship with their own family, the opportunities currently available for female detainees to meet with their families and regularly meet and communicate with their children are still clearly insufficient. There are too many time limitations and very few opportunities to be alone and have direct contact with their children. In this respect, there is still a lot of room for improvement. Unconvicted female suspects and defendants should be permitted to meet with their families and children before trial. 3 Women's mental health is of great importance in the treatment of female detainees. The existing measures used to relieve mental stress are relatively uniform and available entertainment is relatively bland. The incidence of mental health problems among women is becoming more frequent and requires sound corresponding intervention mechanisms that create a more relaxed, lenient living atmosphere to relieve psychological stress. 4) The rights of female detainees to pursue beauty should not be restricted; applying makeup and appropriately selecting one's own clothing helps to relieve psychological pressure and express independent personality and dignity. There are still many problems in safeguarding the privacy rights of female detainees. An appropriate balance should be sought between the conflicting values of ensuring the safety of prison management and protecting the privacy rights of detainees, and the boundaries are most worthy of further exploration.