

Implementation of the Bangkok Rules to Women Offenders in the Community

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Thailand Efforts to Implement the Bangkok Rules to Women Offenders

To implement the Bangkok Rules to women offenders in the community, Thailand has put an effort to develop alternative measures for them. The recent development includes law amendment on diversion and alternative measures, and treatment programmes for women offenders.

1) Amendment of Law relating to alternative measures

Prison overcrowding and problem of women prisoners, especially pregnant women and children in prisons, are critical issues in Thailand, which has concerned not only correctional officers but also the criminal justice system as a whole. Several efforts have been made to lessen these problems and one of the most significant efforts is the amendment of the Criminal Procedure Code of Thailand.

According to the Criminal Procedure Code Amendment Act (No.25) 2007, pregnant women and women with young children could be considered for alternatives to imprisonment. Article 89/2 of the Criminal Procedure Code has been amended to give the court authority to order alternatives to imprisonment for those prisoners who have already served one-third of their imprisonment sentence or at least 10 years in cases of long term or life imprisonment. The alternatives could be confinement outside prisons, intermittent imprisonment, and house detention. Prisoners who are eligible for these measures as specified in the Ministerial Rules include those who have caretaking responsibilities. In this case, women prisoners who have dependent children, parent, or husband could get the early release under these alternative measures.

Article 246 of the Criminal Procedure Code was also amended to give the court authority to suspend the imprisonment sentence for specific groups of offenders including pregnant women and women raising their children aged not over 3 years. During the suspension of imprisonment, offenders will be confined outside prisons and the imprisonment sentence will be in effect when their children are over 3 years old. Additionally, Article 247 also reduces the capital punishment for pregnant women prisoners to life imprisonment and allows the women prisoners to raise their children in prisons for 3 years.

To put these laws into practice, electronic monitoring will supplement with these measures. The first pilot project of electronic monitoring will be launched by the Department of Probation, Ministry of Justice in 2013. After evaluation of the pilot project, the Ministry of Justice will continue the application of electronic monitoring to other groups of offenders as specified in the law.

2) Development of effective alternative measures

Non-custodial measures implemented in Thailand are fine, forfeiture of property, suspension of sentence or punishment, parole, and compulsory drug rehabilitation under

the Narcotic Addict Rehabilitation Act. These measures are implemented at different stages of the criminal justice system. However, when analyzing only the non-custodial measures ordered by the court, we will find that the ratio of women offenders under these measures is higher than men offenders (see Table below). About 76.80% of total women offenders were sentenced to non-custodial measures while only 69.57% of total men offenders were sentenced to those measures.

Offenders under non-custodial and custodial measures in Thailand in 2012

Measures	Male	%	Female	%
Non-custodial	366,771	69.57	84,306	76.80
Fine	127,808	24.24	56,656	51.61
Forfeiture of property	325	0.06	48	0.04
Suspended sentence or punishment				
- with probation	140,194	26.59	11,957	10.89
- without probation	98,444	18.67	15,645	14.25
Custodial (Imprisonment, detention, capital punishment)	160,391	30.43	25,462	23.20
Total	527,162	100.00	109,768	100.00

Source: Office of Planning and Budget, the Courts of Justice

The figure from the table reflects that the Thai Courts of Justice seems to take into account needs and problems of women offenders when making sentence decision or the offending behaviors of women may not be so serious that the imprisonment is necessary. For any reasons, there are some evidences that the Thai courts are applying the Bangkok Rule when sentencing women offenders.

Recently, in consideration of the Bangkok Rules, the Court of Appeal ordered the suspension of punishment for a women offender who committed an offence against the Gambling Act. The offender was sentenced to 2 month imprisonment by the provincial criminal court and then appealed to the Court of Appeal for the suspension of punishment. The appeal was allowed. The Court of Appeal gave the reasons that the defendant has no criminal record and the nature of the offence is not serious. The Court also stated clearly that in order to conform to the Bangkok Rules, the Court took into account the negative impact of the imprisonment on the defendant and her child who is under 1 year old. Therefore, the defendant was imposed 2,500 baht (83 US dollars) and suspended the punishment of imprisonment for 2 years with 1 year on probation.

However, when analyzing the number of women offenders under suspension of punishment in 2012, we found that ratio of women offender is lower than those of men offender. Only 10.89% and 14.25% of women offenders were under suspension of punishment with and without probation, respectively. This number is quite low. The statistic from the Department of Probation also reports that there are about 10,000 women offenders newly admitted to the Department each year.

To conform to the Bangkok Rules and provide more opportunity for women offenders to be treated in the community, the Department of Probation is developing the pre-sentence investigation tool which will reflect the needs and problem of women. Pre-

sentence investigation is usually ordered by the court for criminal cases the court may impose imprisonment sentence not more than 3 years. Probation officers will conduct pre-sentence investigation for both men and women offenders by using the same tool. However, due to complicated nature of offending and different risk and needs of women offenders, the newly developed tool should be more gender sensitive and address women problem and needs, such as history of sexual abuse, caretaking responsibility, and health and mental problem. Moreover, the Department is proposing the court to order the pre-sentence investigation in every women case. It is expected that the pre-sentence investigation report will provide the background information and factors relating to offending behavior which will assist judges to order appropriate sentence for women offenders.

3) Gender-responsive programmes

The Department of Probation is the main agency responsible for non-custodial measures which are probation and compulsory drug rehabilitation. In accordance with the Bangkok Rules, the Department provides vocational training and treatment programmes designed for women. These programmes are planned and designed by considering offender's needs and interests as well as the market demand. After planning, the probation officers will work closely with the local organisations to conduct the programme. For example, volunteer probation officers and community justice network members will help probation officers organise the programmes by drawing resources from local organisations, such as training centers, colleges, and private companies. The available vocational training programmes include Japanese food cooking (sushi), miniature doll making, doll accessory making, Thai massage, hair cut, and scented candle making. Moreover, if necessary, offenders will be funded for starting their business or assisted for job application.

Additionally, special treatment programmes for drug addicted women offenders are being developed by the Department of Probation. Currently, the Department treats approximately 17,000 women drug addicts under the compulsory drug rehabilitation system each year. These offenders are at risk of being pregnant since it is often found that people using drug are more sexually active and less likely to use contraception when they have sex. To prevent pregnancy among this group of offenders, the programme will educate women drug addicts about birth control and adverse effect on babies, such as birth defects, developmental problem, and behavior problem and provide prenatal health-care programme for pregnant women.

Raising Public Awareness through the Kamlangjai (Inspiration) Project

One of the key factors to effective treatment of women offenders is public awareness and support. Apparently, the adoption of the Bangkok Rules by the UN General Assembly reflects the public support for helping women offenders. However, the implementation of the Bangkok Rules alone could not lessen their problem. Problems and needs of women offender as well as negative impact of imprisonment on women and their children should be informed so that the public understand the need for non-custodial treatment and assist women to reintegrate to society.

The Kamlangjai or Inspiration Project initiated and supported by HRH Princess Bajrakitiyabha is a good practice of raising public awareness. Since 2006, the project has

run many activities and campaign aiming to assist women offenders, women prisoners and their children. Moreover, the project acts as a link between public and private organisations and those who need help. Support and assistance from society could reach women and children especially those who are in prisons through this project.

Since HRH Princess Bajrakitiyabha, founder of the Kamlangjai Project, has been UN Women Goodwill Ambassador, the Kamlangjai Project has also launched the “Say No to Violence against Women” Campaign. Various activities, such as bicycle rally, role model competition, and public relations through media, were conducted to raise public awareness on the need to stop violence against women.

Apart from providing continuous assistance to women in and out prisons, the project conducted series of research on women offending, treatment programme, women prisoners, and children in prisons. The research findings are publicized not only in Thai society but also translated to English language and presented in international conferences¹.

Conclusion and Recommendations

Although the adoption of the Bangkok Rules by the UN General Assembly is the remarkable step toward improvement of women offender treatment, it is more important that the Rules should be effectively implemented. The efforts done by Thai criminal justice as discussed above is at the initial stage. Some measures are at the developing process and there is still more work that needs to be done. However, as the country proposing the Rules, we determine to actively implement it to both women offenders and prisoners.

Thailand Institute of Justice (TIJ) as the organisation promoting the implementation of the Bangkok Rules will play an active role to support and encourage relevant agencies to implement the Rules. Specifically, the implementation of the Rules relating to non-custodial measures which involves several agencies in the criminal justice system should be planned systematically. Actions for developing alternative and non-custodial measures should be comprehensively set and prioritized. More importantly, research on women offending and needs should be done to guide and support any plans or actions that will be developed.

In order to successfully implement the Bangkok Rules, TIJ will give the contribution to promote the development of women treatment programme, diversion measures, and personnel training and conduct research on these subjects. The contribution of TIJ will also extend to international forum including ASEAN community and other regions. Finally, we invite criminal justice agencies in all countries, relevant international and non-government organisations to devote their attention to women offenders and prisoners and collectively work to assist them.

¹ Research reports can be downloaded from www.kamlangjai.or.th.