

Women and Prison in Hong Kong

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Introduction

Although the UN Standard Minimum Rules for the Treatment of Prisoners (SMR) were established in 1955, the needs of imprisoned women – who typically represent less than 10% of total prison populations – were not specified. It was not until half a century later, in 2010, the UN approved the Bangkok Rules, marking the first clear and specific UN standards for the treatment of women prisoners and non-custodial measures for female offenders. The rules are intended to protect female prisoners on remand, convicted, in protective custody, completing a non-custodial sentence, and children accompanying their imprisoned parent. The Bangkok Rules include 70 principles to protect and safeguard the different needs and vulnerability of these female prisoner groups from the point of admission to registration, allocation, personal hygiene, medical screening and gender specific health care services, safety and security, contact with the outside, and institutional training for personnel. For sentenced prisoners, additional priorities include gender sensitive classification, balanced programming, and promotion of positive social relations and aftercare. For those on remand, consideration should be given to the women's family ties and circumstances and alternatives to custody. The needs of other imprisoned women - pregnant women, mothers with children, foreign nationals and minorities and indigenous people – are also delineated to take into account their displacement from home or country of origin and cultural relevance in programs and services.

With 193 UN member countries voting in favor of the Bangkok Rules, this event is an important reminder of the need to take stock of the progress made around the globe. This has been an ideal opportunity for us to consider the changes that have taken place in Hong Kong since 1999 when Hong Kong's main and shadow reports on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) were released. In the following discussion, we briefly review the key issues of the CEDAW shadow reports. We then describe the nature and context of the female prison population in Hong Kong, and how for nearly a decade, Hong Kong has ranked either first or second in the world with the largest percentage of female prisoners within the total prison population. What accounts for this rise and what are its implications for

Hong Kong's Correctional Services Department (CSD)? We then turn to how Hong Kong's correctional authorities have adjusted to the changes in the nature and context of the female prison population, including the adoption of policies and programmes addressing the specific needs of Hong Kong's female prisoners.

Background – CEDAW Shadow Report (1999)

In 1999, the Hong Kong Human Rights Monitor, on behalf of a number of local NGOs, submitted a shadow report in response to the HKSAR's initial report on CEDAW. Women in prisons were considered to be an important area of consideration under women's issues related to laws and their enforcement.

At the time of the report, three main issues were raised. First, correctional authorities had witnessed a significant rise in the number of female admissions to prison, such that the proportion of females to the overall total prison population had reached 12% - a ratio higher than the international range of 2% to 9%. This growth in the female prison population led to unprecedented crowding, with one facility's population standing at 414 despite its capacity of 278.

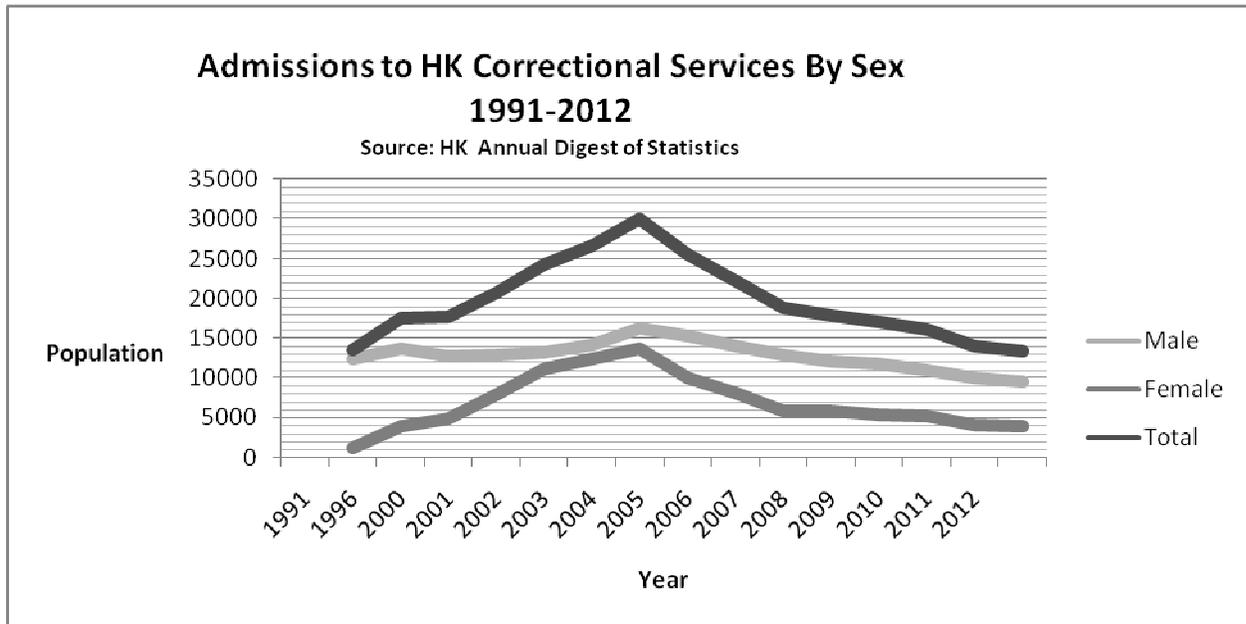
Second, the nature and objectives of work, education and training should be reconsidered given CSD's rehabilitation goals and the changing nature of Hong Kong's economy. Given the shift from a manufacturing to a knowledge-based economy, training and work in such fields as sewing, laundry, and stationary production did not equip female prisoners upon release into the community, although it was observed that some young female prisoners were training in cosmetology. According to the report, remand prisoners had the option to work, but were not always aware of this, unless they reviewed the booklet for those on remand and consequently spent their time with little to do, and the creation of jobs required additional financial resources. The educational curriculum for women was found to be relatively limited and could be strengthened with the adoption of compulsory literacy classes and a systematic curriculum, particularly for young women below 21 years of age, who because of the serious nature of their committing offense, were incarcerated in an adult facility and young illegal immigrants (mainly from the mainland) held in a minimum security prison.

Third, although generally in compliance with institutional rules and international standards, gender staffing practices should be further considered to ensure female prisoners be supervised by female correctional staff, taught by female teachers (male teachers should not be alone with female inmates) and receive appropriate training for working in a penal institution.

The Nature and Context of Hong Kong’s Female Correctional Population

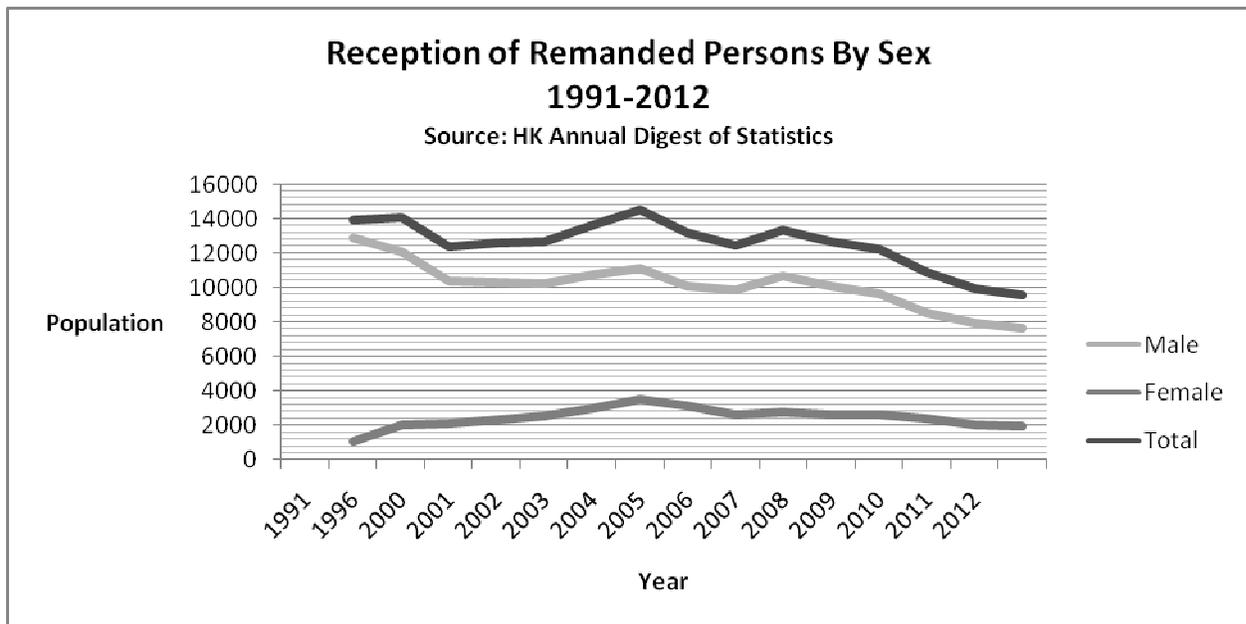
The first signs of a rise in the female prison population appeared in the latter part of the 1980s. In 1982, women sentenced and admitted to correctional services constituted a relatively small proportion of all admissions (4%). A decade later, female admissions more than doubled to 1,287, accounting for 9% of all admissions. But after another ten years, by 2001, the proportion of females admitted to CSD grew to 7,955 representing 38% of all admissions. The second CEDAW report (2004) raised similar concerns to those five years previously, in particular noting the “sharp upsurge” in the female prison population since the latter part of the 1990s. At the time of the report, female admissions had reached an all time high, with 13, 775 women being admitted to CSD in 2004. For three consecutive years (2002-2004), female admissions represented 46% of all CSD admissions (Graph 1).

Graph1



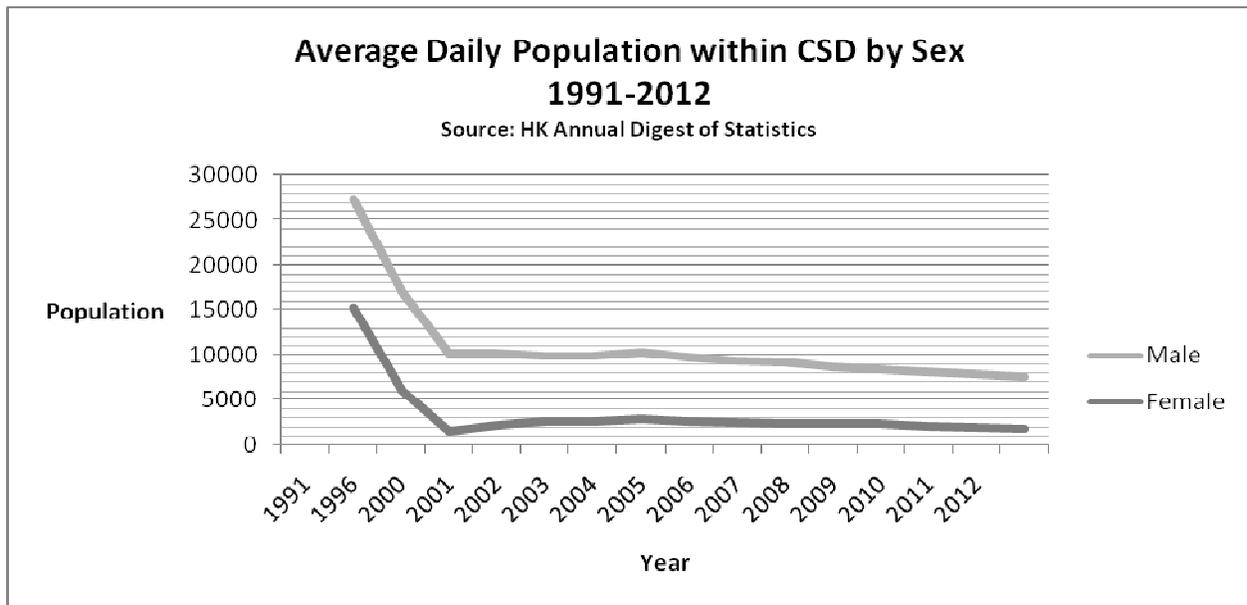
Similarly, albeit at a much lower rate, reception of females on remand also increased, growing from 1,067 women in remand in 1991 and peaking to 3,475 in 2004 (Graph 2). Overall, this rapid increase gained international prominence, ranking first globally with the largest proportion of incarcerated women of their total prison population in the World Prison Population's Survey, conducted by the International Centre for Prison Studies (ICPS 2006).

Graph2



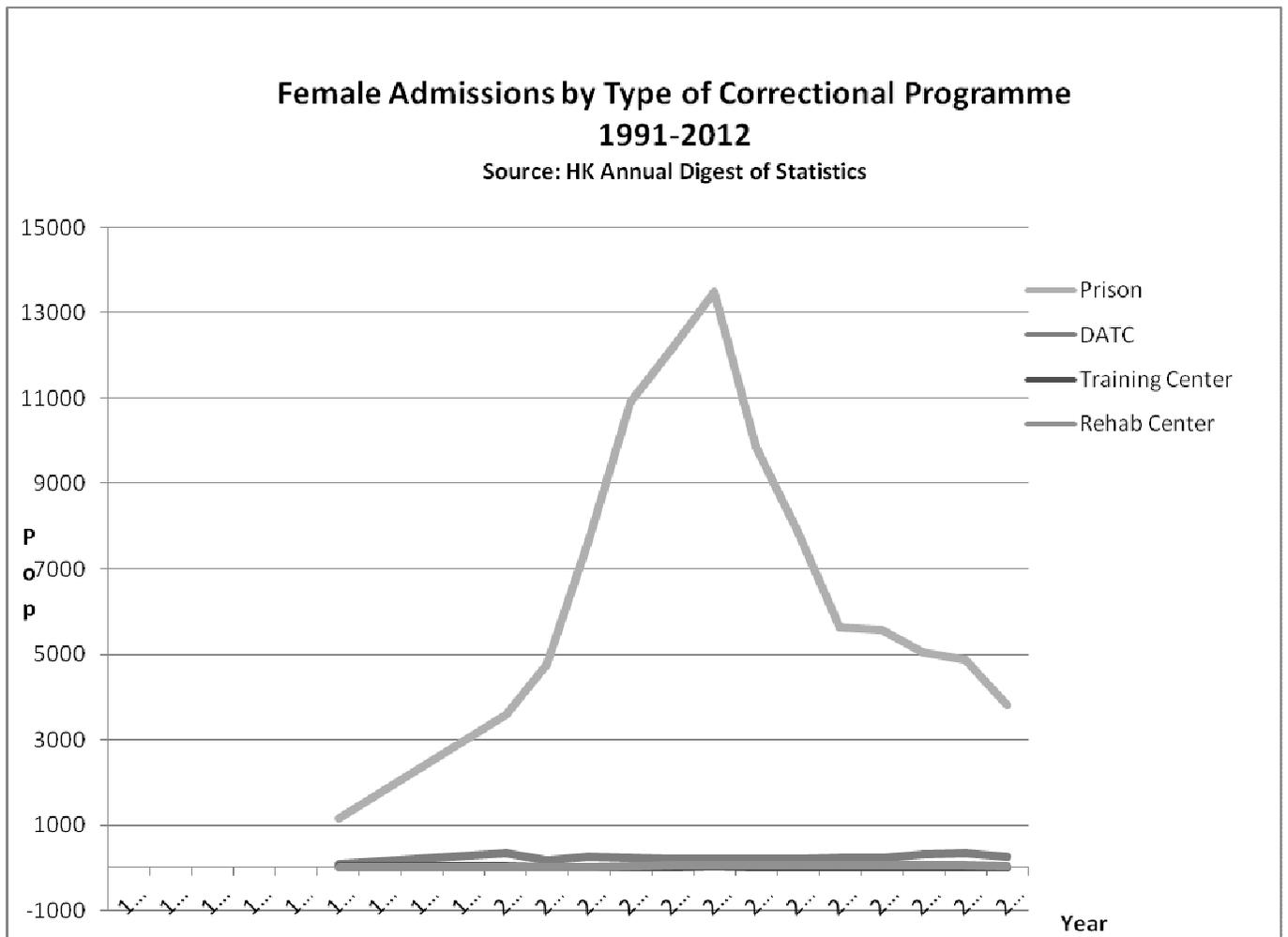
From the 2000s onward, the average daily population grew slightly and remained relatively stable (Graph 3). (It should be noted that the high average daily population in the 1990s is due to the inclusion of detained Vietnamese refugees). In response to the increase in female admissions, CSD developed a number of strategies to deal with prison crowding. This included the conversion of a section of some male facilities for female prisoners and plans for a new female prison (CEDAW 2004).

Graph3



How do we account for this rise? As Graph 4 shows, much of the rise in admissions was for women being sentenced to prison. Comparatively, admissions to the Drug Addiction Treatment Center (DATC) remained relatively low and constant. Admissions of females under 21 to the Training Center and the Rehabilitation Centre (opened in 2002) show a similar pattern to DATC.

Graph 4



An examination of the length of sentence for female prisoners yields further insight into the distinctive nature of this rise. The majority of females admitted to prison during the rise received short sentences of three months or less.

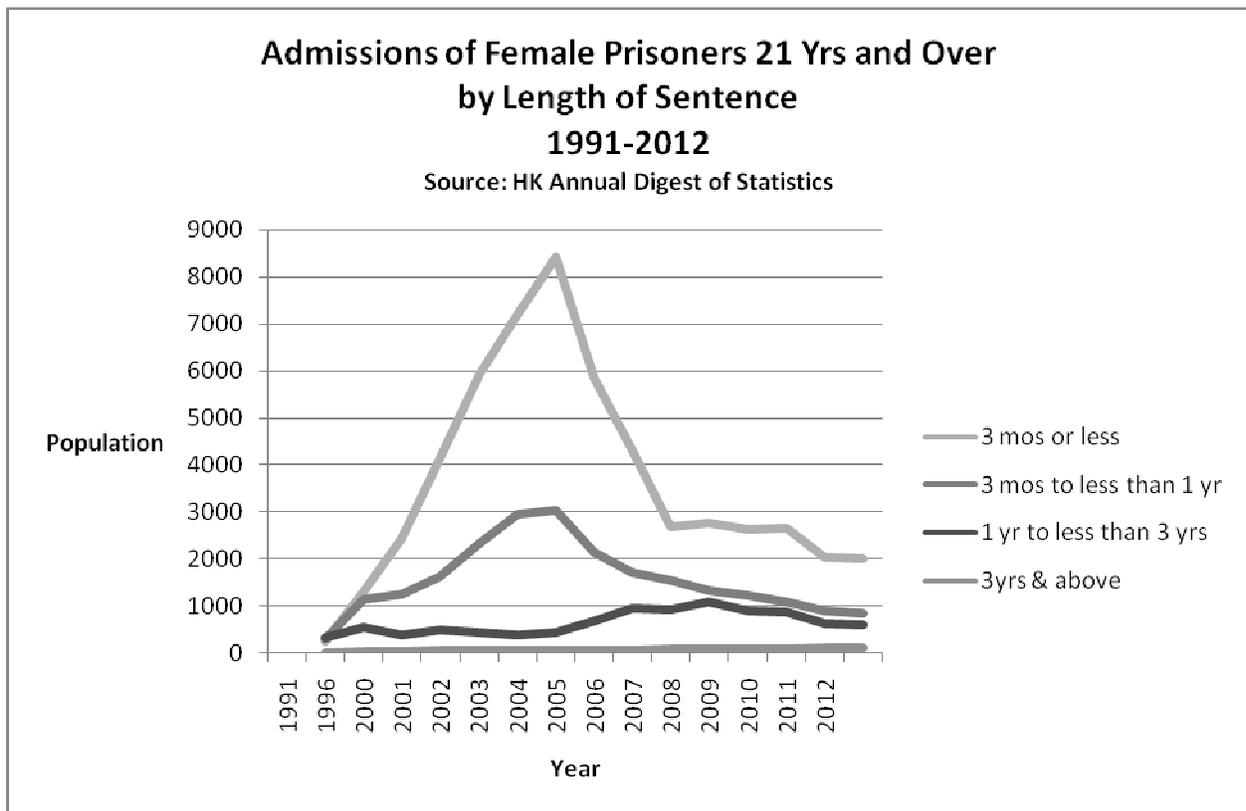
Graph 5 shows that the majority of young female prisoners admitted to prison were serving three months or less. In 1991, 21% of young female prisoners admitted that year were serving three months or less. By 2002, this proportion grew to 75%, and two years later, peaked at 80%.

Graph5

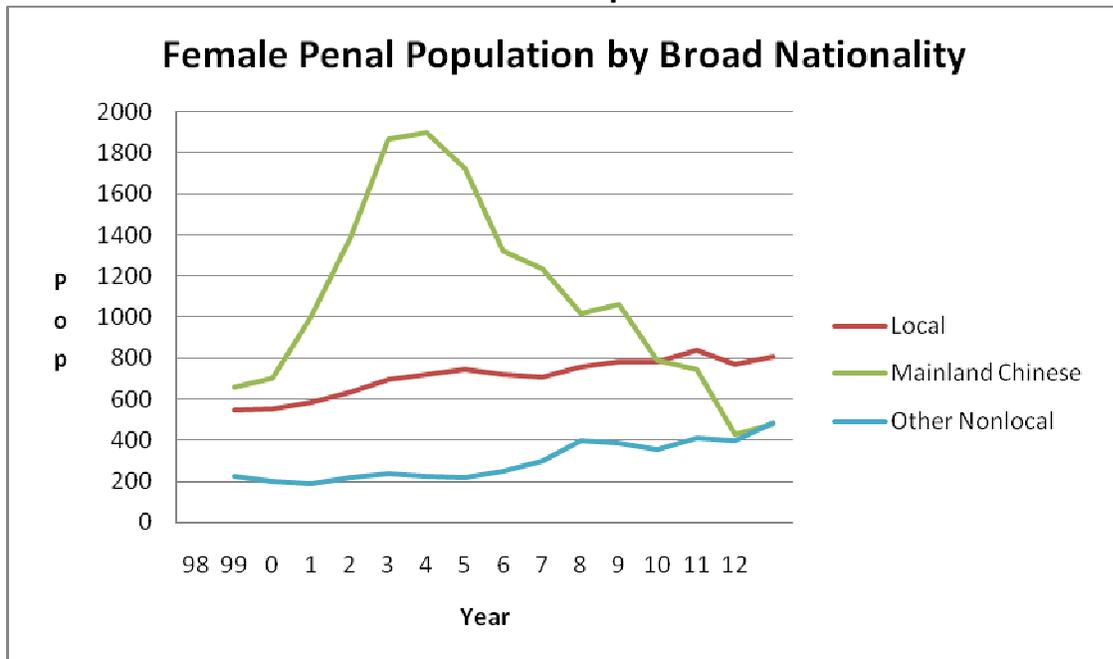


A similar trend is evident for adult female prisoners, the majority of whom are sentenced to short terms of three months or less (Graph 6). In 1991, 26% of adult female prisoners admitted that year were serving three months or less. By 2004, this proportion rose to 70%. Although this proportion has declined somewhat, it remains relatively high, with over 50% of adult female prisoners sentenced to short terms of three months or less over the past seven years.

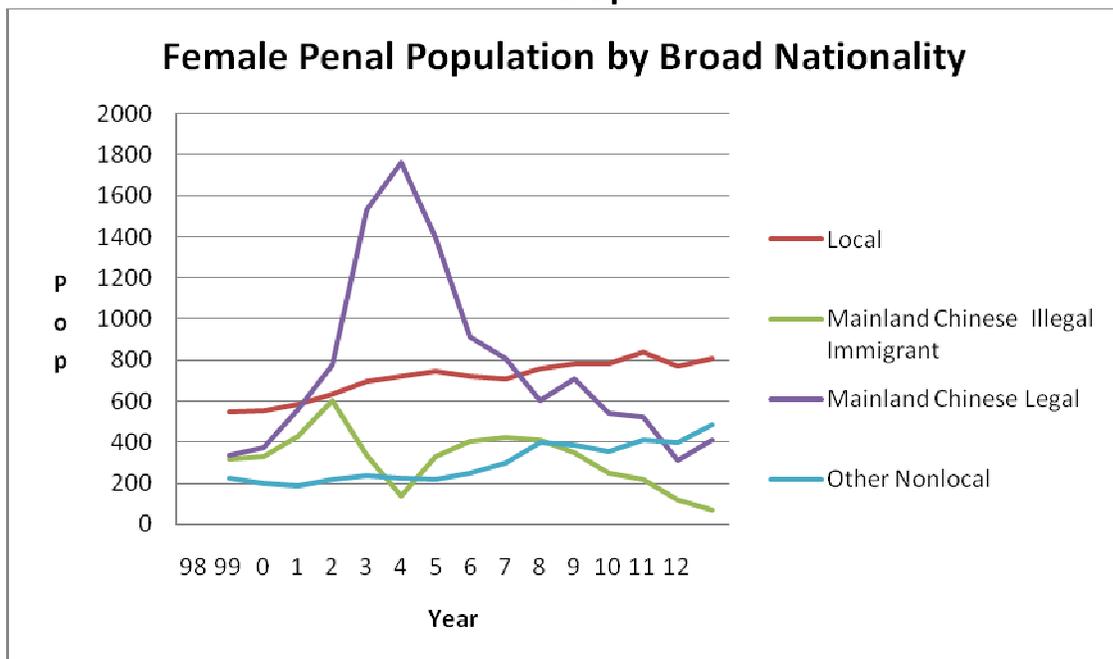
Graph 6



Graph 7A



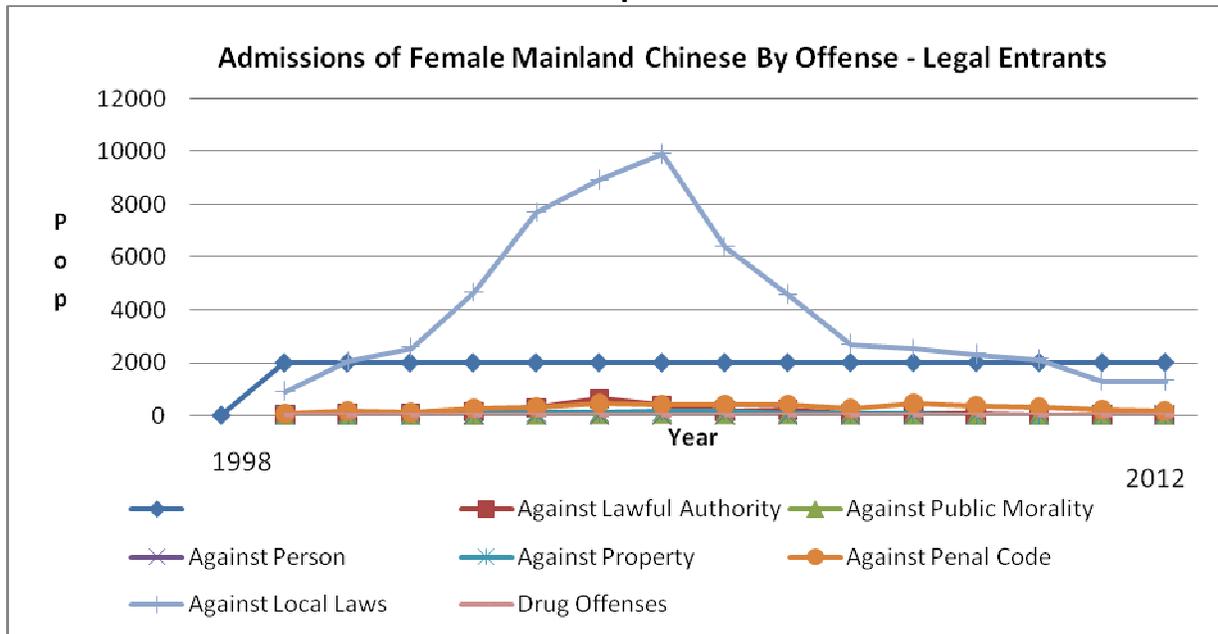
Graph 7B



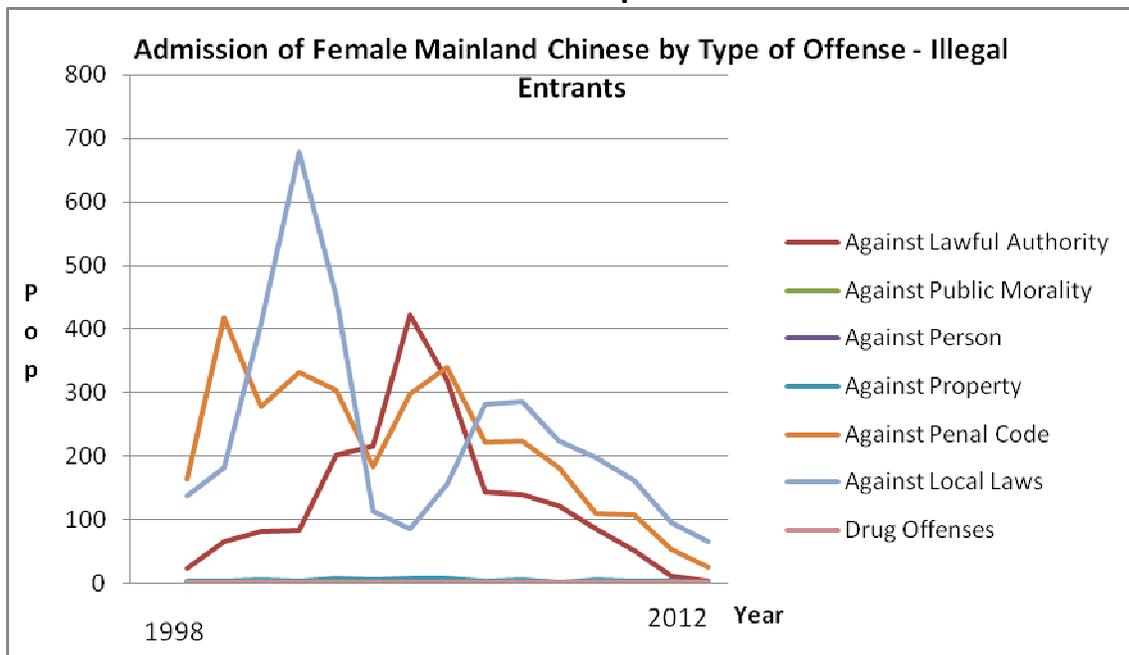
Graphs 7A-B show that the rise in the female prison population from the late 1990s through to the first half of the 2000s was largely due to the incarceration of mainland Chinese women. Although initially the rise was both among legal and illegal entrants, CSD witnessed a decrease in the number of illegal entrants by 2004 as immigration visa policies changed, and the number of legal entrants incarcerated continued to rise.

Graph 8 shows that the principal offenses for which legal migrants are admitted to prison are related to violations of local laws, and in particular, breach of conditions of stay, soliciting for immoral purposes, and to a lesser extent, possession of forged ID. Among illegal entrants (as shown in Graph 9), violation of local laws (in particular remaining in Hong Kong unlawfully), against the penal code (possession of forged ID), and against lawful authority (principally perjury) are the primary offenses resulting in penal admissions.

Graph 8



Graph 9



While female prisoner admissions for breach of conditions of stay related to sex work and soliciting has been on the decline, other mainland mothers, albeit small in numbers at the moment, are being sentenced to prison for overstaying in Hong Kong to give birth to their baby. According to Immigration authorities, an estimated 420 mainland women who gave birth in Hong Kong were prosecuted for overstaying their immigration visas (Wall Street Journal 2012). Those arrested and convicted, usually a few days after giving birth, receive a prison sentence of two months. Babies are allowed to stay with their mothers in prison, and provided with a crib near their mother, in a dormitory setting.

Implications of Changing Female Prisoner Population

CSD developed a number of strategies in response to the significant changes in the nature and types of females imprisoned, broader economic shifts, and commitment to rehabilitation. At the most immediate level, crowding has been addressed with the opening of a new female institution, Lo Wu (opened in July 2010) designed to cater to women's needs, including a health clinic and accommodation for mothers and their babies (who can stay up to three years of age). In total, there are seven facilities for female prisoners and inmates. Yet challenges remain with the increase in female foreign prisoners, most of whom are serving short sentences for breach of conditions of stay; the ideal of rehabilitation, work, and training may be at odds with their circumstances.

- 'gender-specific treatment approach' and 'holistic approach' to promoting reintegration
- Personal Growth and Emotion Treatment Centre for Women (PSY GYM) at Lo Wu
- recognition of gender-specific risks, emotion/psychological problems, parenting stress, self-harm behaviour
- programmes - crisis management, cognitive behavioural therapy for emotional problems/traumatization, structured treatment groups
- mother and baby units
- rehabilitation from drug abuse (e.g. in DATC) and illness

Conclusion

In reflecting on women's imprisonment in light of CEDAW reports, the Bangkok Rules, and social changes in Hong Kong over the past 20 years, there are three issues we'd like to highlight.

First, from our review, CSD has been responsive to many of the challenges it faces as the "last stop" in the criminal justice tunnel, developing an infrastructure to work towards its goals of rehabilitation and at the same time, accommodate to a changing female prison population. It has managed to address the issue of crowding, first with short term measures of converting male accommodations suitable for female prisoners, and the construction of a new modern and up to date facility. It has also developed relevant programming in a changing environment. With this developing infrastructure, gender-sensitive monitoring will be important.

Second, we believe that one of the most important key issues to addressing the Bangkok Rules in the local context is policy. Since 2004, there has been a significant but gradual decrease in female admissions, especially women prisoners from the mainland convicted of immigration violations and soliciting. The reasons for this are unclear as policies appear to remain unchanged. It could well be that fewer women are crossing the border to engage in sex work, finding other opportunities within the borders of mainland China. It could also be that soliciting and the venues for engaging in sex work have adapted to policing strategies, becoming less visible and closed. It could well be that one woman brothels – the only legal venue for sex work – have become an accommodation strategy. In May 2013, police arrested a couple for operating a vice establishment in six flats that were subdivided into 20 to 30 cubicles. The cubicles were operating as one woman brothels since 2005. The business generated an estimated HKD170 million (SCMP 2013). Yet given the closed nature of one woman brothels, women have been at risk of violence. In 2008, five sex workers were murdered in one woman brothels (SCMP 2008).

At the same time, CSD is still faced with the challenge of a large short term female prisoner population. What role should imprisonment play for short term prisoners? What is possible? What is to be achieved? That is, what is the fit between our prison regime and rehabilitation strategy with the nature of this prison population?

One of the central aims of the Bangkok Rules is the protection of human rights. Perhaps then, it is worth considering existing policies and laws governing sex work. In 1999, CEDAW's concluding observations stated, "The Committee recommends that adequate regulations to protect women sex workers be put in place and enforced. It also recommends that the Government monitor the links between the presence of migrant women, a regulatory approach to prostitution and trafficking in women."

Finally, the Hong Kong experience sheds some light on the practical constraints of some of the Bangkok Rules. Hong Kong, like many other locales around the world, has witnessed the rise in women's imprisonment. Increasingly many women who are imprisoned are not resident or citizens of that locale, caught in the circuit of migration. While the Bangkok Rules encourage transfers for foreign nationals to their native country with the prisoner's consent, what are the difficulties in practice? In addition, what are relevant strategies for short, medium and long term imprisonment?

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