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### **Introduction**

- Let me first of all welcome you and thank you for giving me a chance to attend this symposium and have the opportunity to present to this important audience the Working Group on the issue of discrimination against women in law and in practice (the WG). We consider this Symposium as a highly important forum to address the issue of non-discrimination against women in prisons. We also believe the Bangkok Rules to be supreme guidance and implementation tools for elimination of gender inequalities, from which female offenders often suffer.
- My presentation will consist of the following three parts:
  - I will begin with providing you some general information on the WG, which I represent, and its activities (including those related to women in prison).
  - In the second part I would like to briefly draw you an image of how the problem of women in prisons was reflected in the activities of various UN treaty bodies and other special procedures.
  - In the last, third part, I would like to present one example of good practices with regard to application of the Bangkok Rules in the region, which I represent, that is in Eastern Europe, and mainly Poland.

## **I. INFORMATION ON THE WORKING GROUP AND ITS ACTIVITIES**

### **Establishment and composition**

- The establishment of the Working Group on discrimination against women in law and in practice by the Human Rights Council of the United Nations (HRC) in October 2010 was an important step on the long road towards women's equality with men. It was only the second time a mandate specifically focused on women was created by the HRC, since that of the Special Rapporteur on violence against women its causes and consequences (SR VAW) in 1994.
- Members of the WG took up their functions on May 1<sup>st</sup> 2011. In 2013 the mandate of the WG has been extended for another three-year term.
- The WG is composed of five independent experts, coming from the five UN regions, who are working in collegiality. Members of the WG are acting in their personal capacity. We are not staff members of the UN. Ms Kamala Chandrakirana (Indonesia) was nominated as the first chairperson of the WG. Ms Frances Raday (Israel /United Kingdom) is currently the chairperson. Other members of the WG are Emna Aouij from Tunisia and myself. Currently there is a vacancy for the seat of the expert from Latin American and Caribbean States (*GRULAC* countries), which is to be filled in March of the present year.
- The WG meets three times a year for a one-week session (two sessions in Geneva and one in New York). It has met 9 times so far and managed to adopt among others methodological and analytical approaches to its works.

## The Mandate

- The mandate of the WG is very broad. According to it, the WG is to:
  - identify best practices related to the elimination of laws that discriminate against women or are discriminatory to women in terms of implementation or impact, and to prepare a **compendium** of such practices;
  - undertake a **study on the ways and means** in which the WG can cooperate with States to fulfil their commitments to eliminate discrimination against women in law and in practice;
  - make recommendations on the improvement of legislation and the implementation of the law to contribute to the promotion of gender equality and the empowerment of women; and
  - submit **an annual report to the HRC** on the issue of discrimination against women in law and in practice, and on good practices in eliminating such discrimination.

It is particularly important to recognize that this is the first HRC Special Procedure (SP) mandate which places emphasis on the empowerment of women rather than women as victims.

## Thematic Reports

- In carrying out its mandate, the WG decided to conduct **thematic work** which results in the preparation of a yearly thematic report. In view of the broad thematic scope of its mandate, covering discrimination against women in law and in practice in all spheres of life, the WG has identified four thematic areas of focus, namely: political and public life (with focus on political transition); economic and social life (with focus on economic crisis); family and cultural life; and health and safety.
- In June 2013 the WG already presented at the HRC the first thematic report on political and public life, which then was focusing on political transition (it can be found on the web page of the group<sup>1</sup>). Currently we are finalizing work on our second thematic priority, namely discrimination in economic and social life, with focus on economic crisis. The report, which will provide policy guidance to states in this field, will be presented at the HRC in June 2014. To collect relevant information for reports, the WG has sent a questionnaire to all member states and has issued a call for submissions on its website.
- Recently we started working on our third thematic priority for 2014/2015, which is discrimination against women in law and practice in family and cultural life. **The health and safety report, which will focus *inter alia* on discrimination against women in detention facilities, will be presented to the HRC unfortunately as late as in June 2016.** This issue however has appeared, if only marginally, during other activities of the WG, especially during country visits and communications.

## Country Visits

- The Working Group, as a HRC SP, conducts two or three country visits each year. These visits provide a unique opportunity to collect first-hand information not only on laws but also on malpractices which discriminate against women and good practices in eliminating

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<sup>1</sup> <http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/WGWomenIndex.aspx>

discriminatory laws. They also allow us to deepen the dialogue that the WG endeavors to nurture with Member States on matters falling within its mandate.

- Within the short life-time of the WG, we have conducted visits to Morocco, Moldova, Tunisia, Iceland, and China. During country visits, half of the agenda is always devoted to meeting with non-states actors. Therefore it is a good opportunity also for -governmental organizations (NGOs) to voice their concerns and the mission report, prepared after each country visit, can become an advocacy tool for the NGOs to call for change.
- For example during the visit to Moldova, NGOs signaled to the WG the problem of harsh punishment for victims of domestic violence, who eventually killed or attempted to kill their abusive partners and the lack of segregation of juvenile and adult female detainees in prisons in Transnistria. Those signals have been reflected in the Moldova mission report<sup>2</sup>.
- With regard to the WG recent visit to China, the mission report will be presented to the HRC in June 2014, for this reason today I can only talk about the preliminary findings of the WG, contained in its mission statement<sup>3</sup>. However I would like to mention that, since the main focus of the WG visit to China was discrimination in economic and social life, the WG did not visit any prison and the issue of women's conditions of detention were not addressed during the mission. As a result, this issue will not be covered in the WG report, besides the more general problem of long imprisonment sentences given to women for killing their abusive husbands or partners in context of domestic violence. Nevertheless I can assure you that the WG is aware that China has one of the fastest growing female prison population in the world and must face the logistical and organizational problems resulting thereof, among others related to providing sufficient female staff members, especially among prison guards and medical personnel. In the future we will observe China's efforts to tackle those problems. The WG will also follow up on media releases on the controversial problem of issuing administrative decisions directing woman prostitutes to reeducation camps, as well as alarming incidents where the state has put a number of woman (including mothers) on death row.

### Communications

- As part of its engagement with states, the Working Group is using communications with governments and other actors in the spirit of soliciting dialogue on issues falling within its mandate. Relevant information may be submitted to the Working Group by a State, a state organ, an intergovernmental organization or NGO, or any other organization or individual. The WG thoughtfully reviews such communications with the view to taking appropriate action. The aim of this procedure is to encourage the Governments concerned to clarify the allegations, investigate the situation and take all necessary steps to immediately redress any existing case of discrimination and prevent future recurrences of discrimination against women in law or in practice.
- The WG has dealt so far mostly with cases involving individuals or groups of individuals. It frequently takes actions in cooperation with other mandate holders, mostly the SR VAW, but also the SR on torture, on trafficking, on health, etc. In relation to individual cases, the WG received, for example, allegations of violence against women in the context of protests that took place in some countries in transition, or cases of women having been sentenced to death by stoning for adultery, as well as cases of women or girls, who allegedly became victims of forced conversion to Islam and forced marriage.

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<sup>2</sup> Report of 13 March 2013 A/ HCR/23/50/add 1, para 33, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/120/12/PDF/G1312012.pdf?OpenElement>

<sup>3</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14129&LangID=E>

- It has also issued some communications in relation to draft legislation or existing legislation allegedly discriminating against women and policies or practices discriminating against women, not linked to individual cases. For example, in relation to draft legislation, the WG sent communications regarding draft constitutions of Egypt and Tunisia, as well as draft nationality legislation in Lebanon and an anti-discrimination act prepared to be adopted in Chile.
- Complaints may be brought against any country, regardless of its status of ratification of international human rights treaties. Differently, as in the case of petitions directed to treaty bodies such as CEDAW, it is also not necessary to exhaust all domestic remedies before taking advantage of the procedure and there is no admission condition that the same matter has not been examined under another procedure of international investigation or settlement.
- In order to facilitate such submission of information, the WG has developed a note which provides some guidelines for submitting to the WG of allegations of discrimination against women<sup>4</sup>. I kindly invite you to have a look at the guidelines on submitting information and to send to us any information you deem relevant.
- In terms of follow up to the communications, the content of the communication sent by the WG to Governments remain initially confidential, until the moment when those communications and answers received to them are published in the Joint Communications Report of Special Procedures, which is submitted three times a year to the HRC.

#### Activities of awareness raising through media statement

- Sometimes, the WG also issues press releases, hence fulfilling its awareness raising function. It did so for example in order to alert, both the Tunisian and Egyptian public opinion, about shortcomings in relation the gender equality and women's rights provisions in their draft constitutions.
- On International Women's Day, the WG issued a joint statement with the SR VAW, titled "Women in crisis", addressing the danger of regression in the enjoyment by women of their human rights in political transition and recalling the responsibility of States in political transition to protect women against all forms of violence.
- The WG also issued a joint statement on the occasion of the first UN International Day of the Girl Child. The subject of this statement was forced child marriage as a slavery-like reality in many regions of the world.
- The WG also issued a press release on the decriminalization of adultery, citing good practices in this respect.

#### Conferences, regional consultations and workshops

The WG also participates in conferences and regional consultation on thematic issues. And it is particularly important to us to share our work with you in this side event.

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<sup>4</sup> <http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/SubmissionInformation.aspx>.

Information on other complaints mechanisms dealing with women's issues are available under the following url: <http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/Differentproceduresdealingwithwomen.aspx>

## **II. ISSUE OF WOMEN IN PRISON IN ACTIVITIES OF OTHER UN BODIES**

- It has been rightly pointed<sup>5</sup> out that international bodies currently focus more on women's socio-economic status and their status-related civil rights and on the access to (criminal) justice in particular, as victims of domestic and sexual violence, whereas criminal justice issues related to women offenders attracts less attention.
- Nevertheless this problem has been addressed in reports of other special procedures and treaty bodies. The information included there proves that there exists an awareness of the standards enshrined in the Bangkok Rules, although not to a sufficient extent. Hence one can have objections as to their implementation in practice. Here are a few examples.

### Other special procedures

- A number of special procedures when visiting countries also visit places of detention including female detention facilities.
- The **SR VAW** has done that systematically throughout her country visits and elaborated a very comprehensive thematic report on "Pathways to, conditions and consequences of incarceration for women", which she presented in 2013 at the sixty eighth session of the General Assembly. The SR VAW, in addition to her own findings in relation to the visits she carried out, refers to the work of other UN mandate holders. She included in this report especially her own reports from this time period<sup>6</sup>, which encompassed separate sections on women in custody. She also examined for the purpose of her study reports of the SR on torture<sup>7</sup> and Working Group on arbitrary detention<sup>8</sup>.
- In the document on "Pathways to, conditions and consequences of incarceration for women" the SR VAW has noticed that many countries are experiencing a significant and disproportionate increase of women being incarcerated. Her report indicates that there is a strong link between violence against women and women's incarceration, whether prior to, during or after incarceration. It illustrates that throughout the world, women prisoners face similar human rights violations relating to the causes that lead to their imprisonment (such as illegal abortion, moral crimes, offences of "runaway"). Women also face similar discriminatory conditions of imprisonment (in particular placement in prisons far away from home, overcrowding, with poor hygienic conditions and nutrition, inadequate access

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<sup>5</sup> Compare: Submission of Penal Reform International to the WG, unpublished

<sup>6</sup> Reports from country visits of the SR VAW include information regarding woman in prisons from the following countries: EL Salvador (March 2010) A/HRC/17/26/Add.2, Kyrgyzstan, (November 2009)A/HRC/14/22/Add.2, Tajikistan (May 2008) A/HRC/11/6/Add.2, Saudi Arabia (February 2008) A/HRC/11/6/Add.3, Democratic Republic of Congo (July 2007) A/HRC/7/6/Add.4, Afghanistan (July 2005) E/CN.4/2006/61/Add.5, Russian Federation (December 2004) E/CN.4/2006/61/Add.2, The Islamic Republic of Iran (February 2005) E/CN.4/2006/61/Add.3, Occupied Palestinian Territory (June 2004) E/CN.4/2005/72/Add.4, Salvador (February 2004) E/CN.4/2005/72/Add.2, Sierra Leone (August 2001) E/CN.4/2002/83/Add.2

<sup>7</sup> Reports of the SR on torture include information regarding woman in prisons from the following countries: Kazakhstan (May 2009) A/HRC/13/39/Add.3, Uruguay (March 2009) A/HRC/13/39/Add.2, Equatorial Guinea (November 2008) A/HRC/10/39/Add.4, Moldova (July 2008) A/HRC/10/44/Add.3, Denmark (May 2008) A/HRC/10/44/Add.2, Indonesia (November 2007) A/HRC/7/3/Add.7, Sri Lanka (October 2007)A/HRC/7/3/Add.6, Togo , (April 2007) A/HRC/7/3/Add.5, Nigeria (March 2007)A/HRC/7/3/Add.4, Paraguay (November 2006) A/HRC/7/3/Add.3 , Brazil (August-September 2000) E/CN.4/2001/66/Add.2, China (November-December 2005) E/CN.4/2006/6/Add.6, Georgia (February 2005) E/CN.4/2006/6/Add.3, Azerbaijan (May 2000) E/CN.4/2001/66/Add.1

<sup>8</sup> Mission reports of the WG on arbitrary detention include information regarding woman in prisons from the following countries: Norway (April-May 2007) A/HRC/7/4/Add.2, Honduras (May 2006) A/HRC/4/40/Add.4, Ecuador (February 2006) A/HRC/4/40/Add.2, Belarus (August 2004) E/CN.4/2005/6/Add.3.

to health facilities and services, lack of specific care, as well as subjection to violence and privacy infringements). Additionally they suffer from similar consequences of their incarceration, resulting from lack of effective rehabilitation and reintegration programs and failure to protect efficiently the family unit.

- In this document the SR VAW explicitly acknowledges the Bangkok Rules, stressing that they *recognize that the international law principle of non-discrimination requires States to address the particular challenges that women confront in the criminal justice and penitentiary systems, as well as to provide comprehensive standards, for the treatment of women prisoners during their incarceration, rehabilitation and social reintegration*. It is worth adding that the SR VAW report mentioned above also dealt with detention centers holding asylum-seekers and other immigration detainees, which are not covered by the Bangkok Rules. Nevertheless many of the rules are also highly relevant to those settings.
- **The SR on Torture** during his mission to **China in 2005** visited the Beijing Municipal Women's Reeducation Through Labour (RTL) Facility. He observed that the general conditions in this facility seemed satisfactory. However, he was deeply concerned by the prolonged periods for which detainees were being held in solitary confinement, the so called Intensive Training Section. Many of female detainees in this facility were Falun Gong practitioners, who had not renounced their beliefs. The SR also noted that a number of detainees declined to speak to him, while others requested absolute confidentiality<sup>9</sup>.

### Treaty Bodies

It is correctly being emphasized that monitoring bodies can play an important role in prevention of discrimination of women in prisons and in encouraging the governments running them to eliminate this phenomenon<sup>10</sup>. This problem was subject of special interest of the Committee on the Elimination of Discrimination against Women (CEDAW).

- **CEDAW** has addressed the issue of women in prison in different manners, namely: first, in relation to the case law; secondly, in relation to consideration of countries periodic reports, in particular while dealing with issues of violence against women; and thirdly, in its general recommendations.
  - As concerns **case law**, only one case seems relevant (communication No 23/2009), dealing with the conditions of detention of Ms. Abramova in the Republic of Belarus<sup>11</sup>. The claimant was a journalist who was arrested during street demonstrations. She claimed that she was arrested by the police and kept for 5 days in a small, cold, dark and dirty cell and generally was subjected to humiliating treatment by male guards. When health problems appeared, she was denied medical assistance. The author claims that she has exhausted all available domestic remedies, which proved to be ineffective. The Committee found that her detention in the described above conditions constituted inhuman and degrading treatment and discrimination on the basis of sex, within the

<sup>9</sup> China (November-December 2005) E/CN.4/2006/6/Add.6

<sup>10</sup> They can do this by assessing the risk factors and existing safeguards in the places where women are held and by making recommendations to the governments to improve the protection of women against ill-treatment and torture, in line with the provisions of the Bangkok Rules. In examining the risks women face monitoring bodies can also go beyond the facts findings in places of detention and try to identify possible root causes of the problems. On this subject see also: "Women in detention: Penal Reform International" and "Women in detention: a guide to gender-sensitive monitoring", 2012. Available under the url: <http://www.penalreform.org/publications/bangkok-rules-guidance-document-and-index-compliance>).

<sup>11</sup> To which CEDAW has adopted the view in 2011 <http://opcedaw.wordpress.com/2012/03/15/treatment-of-woman-in-detention-violated-cedaw-inga-abramova-v-belarus/>

meaning of the CEDAW Convention, which constituted a violation by Belarus of its obligations under several Convention provisions, as well as the General Recommendation no. 19 on violence against women<sup>12</sup>. It is also worth noting, that in the reasoning of its decision CEDAW referred to several international instruments. It especially reminded that the fact that detention facilities did not address the specific needs of incarcerated women, constituted discrimination within the meaning of article 1 of the Convention. The Committee also noted that, *the need for a gender-sensitive approach to problems faced by female prisoners has also been endorsed by the General Assembly by its adoption of the Bangkok Rules*".

- With regard to **the review of particular countries**, CEDAW has explicitly referred to the Bangkok Rules only in relation to a few countries, including in its concluding observations on Greece, Benin in 2013 and Chile in 2012 (para 44 and 45)<sup>13</sup>: In the latter, while noting the statement of the delegation regarding the reform of the prison system and its regulatory framework, the Committee expressed its grave concern about the difficult situation faced by women in prisons, particularly with regard to their access to adequate health care. In its recommendations, recalling the Bangkok Rules, the Committee calls on the State party to ensure that the reform of the prison system includes a gender perspective and provides for adequate health facilities and services for all women deprived of liberty in the country.<sup>14</sup>
- As far as the works of CEDAW in relation to its **General Recommendations** are concerned, the Committee is currently working on a General Recommendations on women's access to justice. During the general discussion, which took place in March 2013, the NGO Penal Reform International<sup>15</sup>, was pushing towards inclusion of the issue of women in detention in that General Recommendation.
- **The Committee against Torture**, in its General Comment No. 2 from 24 January 2008 (which identifies distinct interrelated and essential principles that undergird the Convention's absolute prohibition against torture) has underlined: *"the lack of specific and sufficient information in State reports on the implementation of the Convention with respect to women"*, and further emphasized that "gender is a key factor" in torture prevention. "Being female intersects with other identifying characteristics or status of a person such as race, nationality, religion, sexual orientation, age, immigrant status etc., which help to determine the ways that women and girls are subject to, or at risk of torture or ill-treatment and the consequences thereof. The contexts in which female persons are at risk include deprivation of liberty, medical treatment (particularly involving reproductive decisions) and violence committed by private actors in communities and homes. Both men and women (and boys and girls) may be subject to violations of the Convention on the basis of their actual or perceived non-conformity with socially determined gender roles. States parties are requested to identify in their reports these situations, as well as the measures undertaken in order to punish and prevent them (para

<sup>12</sup>Namely art. 2 (a), (b), (d), (e) and (f), 3 and 5 (a), read in conjunction with article 1 of the Convention. See also a commentary by Simone Cusack on the CEDAW case <http://opcedaw.wordpress.com/2012/03/15/treatment-of-woman-in-detention-violated-cedaw-inga-abramova-v-belarus/> and by Penal Reform International <http://opcedaw.wordpress.com/2013/08/19/protecting-the-rights-of-women-offenders/>

<sup>13</sup> It has however to be noted, that the issue of women in detention is not often dealt with as a separate paragraph in the CEDAW's concluding observations (COBs), which doesn't mean that it is not present there at all.

<sup>14</sup> <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW%20C%20CHL%20CO%205-6.pdf>

<sup>15</sup> <http://www.ohchr.org/Documents/HRBodies/CEDAW/AccessToJustice/PenalReformInternational.pdf>

22). The Committee also recommend the states to provide data disaggregated by age, gender and other key factors in their reports, to enable the Committee to adequately evaluate the implementation of the Convention (para 23)<sup>16</sup>.

- The **Sub-committee on the prevention of torture (SPT), established by the Optional Protocol to the Convention against Torture (OP-CAT)** is also organizing country missions, during which it visits places of detentions. It is worth noting that during its country visits the SPT is using a special guide on grounds of the Bangkok Rules and the guidance note on the Bangkok Rules, prepared by Penal Reform International<sup>17</sup>. The information about Sub-committees reports are available on this webpage<sup>18</sup>. Although most of the reports from the country visits are confidential<sup>19</sup> there is a common knowledge that Subcommittee, as a matter of principle, looks at the issue of women in detention.
- In the public reports the issues of women in prisons and insufficient female staff were mentioned several times. For example in the report from the visit to Sweden, the SPT recommends that the authorities ensure that there is always a female prison guard present at the time female detainees are held in police custody. Whereas in the report from the country visit to Benin, not less than nine recommendations concerned woman and female juvenile offenders. In its recommendations the SPT urged the state among others to assign sufficient amount of space, food and water in women's quarters, as well as to provide them with access to activities, workshops and education.

### **III. GOOD PRACTICE IN BANGKOK RULES APPLICATION: POLISH EXAMPLE**

- In Poland, according to data from 31 January 2014, altogether 2,655 woman were held in penitentiary facilities (out of which 340 were temporally detained), what constitutes 3% of the entire detainee population<sup>20</sup>. This places Poland among countries with a relatively low index of incarcerated woman, not only in the region, but even in the world<sup>21</sup>. It is worth noting that the percentage of woman serving their sentences in house arrest (under electronic supervision) is significantly higher, amounting to 6.7% of all detainees to which this system has been applied.
- The Code of execution of punishments<sup>22</sup>, which regulates the matters of penitentiary, observes regional and international standards. It provides for several rules which correspond with the wording of the Bangkok Rules. Some of them, such as e.g. the rule that detainee should be placed in closest facility to his/her domicile or that strip-searches and invasive body searches must be performed by staff of the same sex as the detainee (Rule 19), or the rule that as a reward the permission may be granted to organize visits in a separate room without the presence of a supervising person (equivalent of the Rule No 27), apply to all detainees, including woman.

<sup>16</sup> CAST/C/GC. 24 January 2008. para 22

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fGC%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fGC%2f2&Lang=en)

<sup>17</sup> UNODC Handbook for Prison Managers and Policymakers on Women and Imprisonment, Atabay, T., New York, 2008, New edition :Women in detention: a guide to gender-sensitive monitoring. Women in detention: a guide to gender-sensitive monitoring, 2012. <http://www.penalreform.org/publications/bangkok-rules-guidance-document-and-index-compliance>).

<sup>18</sup>[http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/CountryVisits.aspx](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/CountryVisits.aspx) .

<sup>19</sup> It is left at the discretion of the State to decide to release or not the report in the public domain. From 18 country visits held by the Subcommittee, since it started its work in February 2007, only 6 reports are public (non confidential)

<sup>20</sup> Information obtained from the Central Management of Penitentiary Institutions.

<sup>21</sup> Data for 2003 cited after [http://www.nationmaster.com/graph/crime\\_pri\\_fem-crime-prisoners-female](http://www.nationmaster.com/graph/crime_pri_fem-crime-prisoners-female)

<sup>22</sup> Act of 6 June 1997 , in force from 1 September 1998 ( Dz. U. 1997 Nr. 90 , pos. 557 with further amendments).

- The Code of execution of punishments also provides for special rules of serving the punishment of deprivation of liberty by women (art. 86-88), which are in accordance to the Bangkok Rules. They provide among others for the obligation to keep woman separately from men and to detain woman as a rule in a semi-open facility<sup>23</sup>, unless the extent of demoralization or security reasons stand in favor of conducting detention in a prison facility of a different kind. Pregnant and breast-feeding woman are entitled to special care (which corresponds with the wording of Rule 10 of the Bangkok Rules). With consent of the family court a female detainee may stay with her child until it reaches three years of age (unless special reasons speak for extension or limiting of this period) in mother and child units, organized in selected penitentiary facilities. Such permission will be denied if educational or healthcare reasons prohibit it. Certain disciplinary penalties do not applied to them (such as deprivation of the right to receive parcel with nutrition from family, to shop in prison magazine, the placement in isolation cell).
- The Code of execution of punishments does not provide for special rules of procedure with regard to woman sentenced for crimes committed in response to previously experienced gender-based violence. However, one of the penitentiary facilities for women (located in Lubliniec), in cooperation with NGOs active in the field of violence against woman (CPK), has successfully attempted to creatively execute the punishment of deprivation of liberty towards this group of woman by applying different educational programs.
- In particular, following actions have been undertaken<sup>24</sup>:
  - Organization of Tribunals for Violence against Women, who took place in the Parliament. Their goal was to raise awareness, particularly among the members of the parliament and representatives of criminal justice agencies of justice, what kind of omissions of the public authorities lead to committing of such crimes and what are the ways to prevent them. In those Tribunals testified women, who have been sentenced. Also prison officers participated in this program;
  - The implementation of the program “Work and a dignified life for female victims of crimes”, whose aim was to provide legal assistance, professional activism and – most important – therapy for detained woman, with use of theater workshops. This program exploited the purifying function of the theater (catharsis), involving the extraction of past problems by presenting them in one’s own biography and then playing various social roles. As a result of this theatrical activity two plays have been prepared, which have been performed numerous times, also outside the country.
  - Voluntary work projects “Bona”, as a method of social re-adaptation, in the course of which detained women worked in hospices, helping handicapped,

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<sup>23</sup> A Semi-open facility is such, where the cells are open during daytime (they may, but must not be closed at night) and the detainees may be employed outside the prison walls, attend to schools there, move freely within the prison and wear own clothing. Those detainees are entitled also to a larger number of visits (this corresponds more or less with Rule 41 and 43).

<sup>24</sup> For more information see: *Kobieta w więzieniu. – polski system penitencjarny w latach 1998 – 2008* ( *Women in prison – Polish penitentiary system in years 1998-2008*), ed. I Dybalska, Instytut Rozwoju Służb Społecznych, Warszawa, 2009 and *Oddziaływania penitencjarne i terapeutyczne w zakładach karnych i aresztach śledczych w 2010 r.* ( *Penitentiary and therapeutical programms in prisons and preventive arrest facilities in 2010*), Centralny Zarząd Zakładów Karnych, Warszawa 2011 p. 93-99 as well : *Trudności przystosowaniu do życia po zwolnieniu z zakładu karnego- między diagnozą a działaniem, koordynacja na rzecz aktywności społeczne* ( *Difficulties with social adptation after released from detension- between diagnosis and action, coordination for social acitivities* ), Koordynacja na rzecz aktywnej Integracji, Warszawa 2013 p. 115-127. All mentioned publications are available in Polish language only.

elderly and sick persons in social care facilities. The aim of this program was to develop an attitude of sensitivity towards the needs of other people and to create the possibility for female victims of violence to liberate themselves from the feeling of helplessness, to raise their self-esteem and to create the possibility for expiation and compensation. This program has been awarded in 2009 with the Crystal Scales of Justice, by European Commission together with Council of Europe<sup>25</sup>.

- The project aimed at tightening the bonds between detained women and their children, is dedicated particularly to women whose relations with their children have been broken or strained. It involved providing transportation for children of detained women for visits organized outside the prison walls. Additionally, during their prison leaves detained women participated in a summer camp together with their children and with other free women, who have experienced gender-based violence.
- All those good practices are worth popularizing and – should anyone be interested – I will gladly assist in initiating contact with the entities responsible for those programs.

### **CONCLUSIONS:**

- It is a fact that some treaty bodies and special procedures monitored the compliance with the Bangkok Rules, although their capabilities are limited. In case of treaty bodies, limitations arise with regard to the fact that they may be applied only to a state being party to the respective conventions and within the framework of the rights enshrined in it and in individual cases, after the admissibility conditions are met, which are strictly set forth. In the case of special procedures the limitations result from the scope of mandate, which in case of the SR VAW is limited to examination of the causes and consequences of gender based violence. With regard to the SR on Torture the mandate is restricted to treatment amounting to torture.
- The WG is well placed to look at issues of women in detention in a holistic way and more particularly at legislation, policies and practices that may be conducive rather than not to detaining women. This would require looking at the justice system as a whole and diagnose how it deals with crimes committed by women with a history of being subjected to domestic violence; or how it deals with adultery which should not be a crime in the first place. The WG could take on some of these issues through its thematic and country-based work as it started doing with its position paper on adultery for example. Also, its thematic report on women's health and safety will cover this issue. In addition, as already mentioned, the WG can also use its communication procedure to bring to States' attention the issue of women's conditions of detentions.
- For this reason I will allow myself to restate, what I was talking about at the beginning of my presentation, namely that the WG welcomes all submissions regarding individual cases of discrimination against woman in prisons, as well as regarding legal provisions resulting in discrimination against women by the broadly understood justice system, regardless if they are still in the process of being drafting or already implemented. I would also like to encourage sending us information about good practices in eliminating discrimination of female offenders in prisons, in the law and in practice, which should help the WG to include this issue and to promote the Bangkok Rules both in its thematic

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<sup>25</sup> It is the most important European award for innovative practice in the justice field, [https://e-justice.europa.eu/content\\_justice\\_forum\\_activities-25--maximize-en.do](https://e-justice.europa.eu/content_justice_forum_activities-25--maximize-en.do)

report on health and safety and in the compendium of good practices it is tasked to prepare.