

# GBV AoR HELPDESK

## Gender-Based Violence in Emergencies

### Guidance Note: Considerations for GBV service providers when requested to provide GBV case management - to women and girls experiencing IPV - in a detention or prison setting



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## Introduction

This guidance note has been generated in response to a request for practical guidance to GBV caseworkers in the Latin America region who have been asked to support women in detention settings and prisons who have experienced intimate partner violence (IPV) and who continue to be at risk of intimate partner violence whilst in detention/prison and upon release from detention/prison. This publication is likely, however, to have wider benefit to GBV caseworkers working in other humanitarian settings. The paper begins with an explanation of the key terminology and definitions, goes on to explore the experiences of women and girls in detention who are impacted by IPV, explores some of the ethical considerations of providing case management to an IPV survivor in detention and concludes with key actions that can support the safety of a survivor in detention, as they prepare for release from detention and post-release. An illustrative case study and a reference list are also included.

The information contained within this guidance note cannot and does not account for all the specific individualized needs of survivors (for example, it does not analyze in detail specific reasons for incarceration such as killing an abusive former partner) nor is it, under any circumstances, intended to replace case management training or supervision processes.

## Terminology / Definitions

It is important for GBV specialists - including case workers- to understand the key terms used throughout this document. These are as follows:

**Definition of GBV:** "Gender-based violence (GBV) is an umbrella term for any harmful act that is perpetrated against a person's will and that is based on socially ascribed (i.e., gender) differences between males and females. It includes acts that inflict physical, sexual or mental harm or suffering, threats of such acts,

coercion, and other deprivations of liberty. These acts can occur in public or in private.”<sup>1</sup>

**Definition of domestic violence which includes intimate partner violence:** according to the UN this can be defined as a pattern of behavior in any relationship that is used to gain or maintain power and control over an intimate partner. Abuse is physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that frighten, intimidate, terrorize, manipulate, hurt, humiliate, blame, injure, or wound someone. Domestic abuse can happen to anyone of any race, age, sexual orientation, religion, or gender. It can occur within a range of relationships including couples who are married, living together or dating. Domestic violence affects people of all socioeconomic backgrounds and education levels. (UN, n.d.).<sup>2</sup>

Anyone can be a survivor of domestic violence, regardless of age, race, gender, sexual orientation, religion or class.

Survivors may also be the child(ren) or other relative(s), or any other household member.

Domestic abuse is typically manifested as a pattern of abusive behavior toward an intimate partner in a dating or family relationship, where the abuser exerts power and control over the survivor.

Domestic abuse can be mental, physical, economic, or sexual in nature. Incidents are rarely isolated, and usually escalate in frequency and severity. Domestic abuse may culminate in serious physical injury or death.

**Definition of detained person:** According to the OHCHR Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the UN General Assembly resolution 43/173 (9 December 1988) a detained person is ‘any person deprived of personal liberty except as a result of conviction for an offence.’<sup>3</sup>

**Definition of detention:** detention is “the condition of detained persons as defined above” by the OHCHR.<sup>4</sup>

**Definition of imprisoned person:** According to the same OHCHR Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the UN General Assembly resolution 43/173 (9 December 1988) an imprisoned person means “any person deprived of personal liberty as a result of conviction for an offence.”<sup>5</sup>

**Definition of imprisonment:** imprisonment is “the condition of imprisoned persons as defined above” by the OHCHR.<sup>6</sup>

**Treatment:** Principle six of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment provides that “No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.”<sup>7</sup>

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<sup>1</sup> IASC, (2015) Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action: Reducing Risk, Promoting Resilience and Aiding Recovery. See page 5. [https://interagencystandingcommittee.org/system/files/2015-iasc-gender-based-violence-guidelines\\_lo-res.pdf](https://interagencystandingcommittee.org/system/files/2015-iasc-gender-based-violence-guidelines_lo-res.pdf)

<sup>2</sup> United Nations (n.d.). COVID-19 Response – What is Domestic Abuse? <https://www.un.org/en/coronavirus/what-is-domestic-abuse>

<sup>3</sup> OHCHR Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the UN General Assembly resolution 43/173 (9 December 1988) <https://www.ohchr.org/sites/default/files/bodyprinciples.pdf>

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

## Intersection of Intimate Partner Violence and Detention for Women and Girls

According to the UN women are the fastest growing prison population across the world with GBV being a key pathway which can lead to women's imprisonment.<sup>8</sup> The most recent edition of the World Female Imprisonment List indicates that more than 740,000 women and girls are held in penal institutions throughout the world, either as pre-trial detainees/remand prisoners or having been convicted and sentenced and that the number of women and girls in detention world-wide increased by 60 percent since 2000, while that of men has risen by around 22 percent.<sup>9</sup> Despite the magnitude of the problem, women in prison are among the most invisible, 'especially those belonging to already marginalized groups.' The lack of research on women and girls in detention or prisons in humanitarian settings has contributed to this invisibility.

The number of women and girls in prison has risen particularly sharply in some countries since around 2000; notably in:

- Cambodia – there are more than nine times as many female prisoners today than in 2000
- Indonesia – more than seven and a half times
- El Salvador – more than seven times
- Guatemala – more than six times
- Brazil – four times.

Source: [The World Female Imprisonment List](#) (5<sup>th</sup> edition, 2022) is part of the World Prison Brief, produced by the Institute for Crime & Justice Policy Research.

There are multiple ways in which GBV and more specifically IPV intersect with the incarceration of women and girls.

While co-occurrence research on the issue is limited, one study found that three times as many women as men report that they have experienced violence, either physical or sexual, before their imprisonment.<sup>10</sup>

Feminist writers and scholars have also written about this co-occurrence and in some cases how women's experiences of violence and oppression have led to incarceration.<sup>11</sup> One qualitative study found that women in prison in the United States had missed work due to physical violence, had to change or quit working due to controlling partners or been terminated from their employment due to the stalking and harassment of their partner/ex-partners.<sup>12</sup> For some women loss of work may have led them to commit acts which contribute to their incarceration.

Data also shows that women and girls are more likely to be detained on suspicion of or convicted and imprisoned for minor crimes/misdemeanors<sup>13</sup> and yet they have often been

the victims of serious crimes/violence including GBV. More specifically, the overall number of women who are imprisoned for serious offences, such as murder, is small. However, a significant portion of women

<sup>8</sup> UNODC (2020:1, 67) *Toolkit on Gender-Responsive Non-Custodial Measures*. [https://www.unodc.org/documents/justice-and-prison-reform/20-01528\\_Gender\\_Toolkit\\_complete.pdf](https://www.unodc.org/documents/justice-and-prison-reform/20-01528_Gender_Toolkit_complete.pdf)

<sup>9</sup> The World Female Imprisonment List (5<sup>th</sup> edition, 2022) is part of the World Prison Brief, produced by the Institute for Crime & Justice Policy

Research. [https://www.prisonstudies.org/sites/default/files/resources/downloads/world\\_female\\_imprisonment\\_list\\_5th\\_edition.pdf](https://www.prisonstudies.org/sites/default/files/resources/downloads/world_female_imprisonment_list_5th_edition.pdf)

<sup>10</sup> Severson M, Postmus JL, Berry M. Incarcerated women: consequences and contributions of victimization and intervention. *International Journal of Prisoner Health*, 2005, 1:223–240.

<sup>11</sup> For examples see Angela Y. Davis *Are Prisons Obsolete?* (2003, Toronto) and Nawal El Saadawi's *Mudhakkirat fi Sijn al-Nisa* (Cairo, 1983). *Memoirs from the Women's Prison*, trans. Marilyn Booth (The Women's Press, 1986).

<sup>12</sup> De Hart D. (2005: vii) *Pathways to Prison: Impact of Victimization in the Lives of Incarcerated Women*. <https://www.ojp.gov/pdffiles1/nij/grants/208383.pdf>

<sup>13</sup> See The Bangkok Rules: United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary (UNODC, 2011: 45) which states "A significant proportion of women who commit violent offences commit them against their husbands or partners in response to systematic abuse. A large number of women offenders worldwide are imprisoned for minor drug related offences, often as a result of manipulation, coercion and poverty. If involved in drug trafficking, women are often minor players, their criminal offences often being an outgrowth of their own addiction or due to poverty and other pressures. A significant number of women are used as drug couriers to smuggle drugs across borders for small sums of money. They come from poor countries and sometimes do not understand the risks involved and implications of the acts they agree to perform."

arrested for violent offences have experienced/or are experiencing GBV and are 'sentenced for the killing of abusive family members in response to systemic abuse.'<sup>14</sup> Women's violence is more likely to be "driven by self-defense and fear" (Swan, Gambone, Caldwell, Sullivan, & Snow, 2008).<sup>15</sup> And "with few exceptions, criminal justice systems fail women in such cases by ignoring their trauma and the dynamics of intimate-partner violence."<sup>16</sup> (UN, 2020: 60).

Further, IPV is characterized by repeated patterns of abusive behavior which means that in some cases abusers may continue their abusive behavior even while a survivor is in detention: using in-person visits, phone calls or other means of communication to threaten and intimidate the survivor, for example, threatening to harm children/other family members, or threats of what will happen to her upon release etc. The impact of past and ongoing violence is compounded by the overall experience of detention/prison which is a system based on punishment, disempowerment, and control (Women in Prison UK, n.d.).

A UNODC review of the impact of the COVID-19 pandemic explains that during the pandemic 'women in prison were affected by the reduction of visits and contact with families [...] increasing their isolation and lack of economic support and aggravating their vulnerability to violence. While some of them benefited from early release or pardons enacted by countries as part of efforts to reduce the spread of COVID-19 in prisons' the report recommends that 'their personal situation should be assessed in order to provide them with options to prevent GBV [...]'. (UNODC, 2021).<sup>17</sup>

*"The sustained and substantial rise in the numbers of women and girls in prison across much of the world is a cause of profound concern. It has long been recognised that most female prisoners are extremely vulnerable – with histories of poverty, mental illness and sexual and physical victimisation. Their incarceration makes little contribution to public safety, while imposing high financial and social costs. It is our hope that the data starkly presented in this World Female Imprisonment List will support and strengthen reformers' calls to bring an end to unnecessary, damaging imprisonment of women and girls."*

Helen Fair, compiler of the World Female Imprisonment List, 5<sup>th</sup> Edition. (2022).

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<sup>14</sup> UNODC (2020:60) *Toolkit on Gender-Responsive Non-Custodial Measures*. [https://www.unodc.org/documents/justice-and-prison-reform/20-01528\\_Gender\\_Toolkit\\_complete.pdf](https://www.unodc.org/documents/justice-and-prison-reform/20-01528_Gender_Toolkit_complete.pdf)

<sup>15</sup> Swan, S. C., Gambone, L. J., Caldwell, J. E., Sullivan, T. P., & Snow, D. L. (2008). A review of research on women's use of violence with male intimate partners. *Violence and Victims*, 23(3), 301–314. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2968709/pdf/nihms244725.pdf> and Stathopoulos M. (2012). *Addressing Women's Victimisation Histories In Custodial Settings*. (Australian Centre for the Study of Sexual Assault) [https://aifs.gov.au/sites/default/files/publication-documents/113\\_0.pdf](https://aifs.gov.au/sites/default/files/publication-documents/113_0.pdf)

<sup>16</sup> Ibid.

<sup>17</sup> See UNODC (2021) *The Impact of COVID-19 on the Criminal Justice System Responses to Gender-Based Violence Against Women: A Global Review of Emerging Evidence*. Page 41.

**Table 7 Female prison population levels – change since about the year 2000**

	Estimated female prison population total at about 2000	Latest available female prison population total (to 5.8.22)	Change in female prison population total since about 2000	Change in general population mid-2000 to mid-2022 (United Nations)
<b>AFRICA</b>	<b>24,000</b>	<b>37,314</b>	<b>+ 55.5%</b>	<b>+ 76.5%</b>
<b>AMERICAS</b> without USA	<b>196,300</b> 37,671	<b>306,375</b> 94,900	<b>+ 56.1%</b> <b>+151.9%</b>	<b>+ 24.5%</b>
<b>ASIA</b> without China & India	<b>143,800</b> 87,611	<b>305,537</b> 137,619	<b>+ 112.5%</b> <b>+57.1%</b>	<b>+ 26.0%</b>
<b>EUROPE</b> without Russia	<b>99,900</b> 44,450	<b>87,324</b> 48,204	<b>- 12.6%</b> <b>+8.4%</b>	<b>+ 5.7%</b>
<b>OCEANIA</b>	<b>1,900</b>	<b>4,077</b>	<b>+ 114.6%</b>	<b>+ 39.2%</b>
<b>WORLD</b>	<b>465,900</b>	<b>740,627</b>	<b>+59.0%</b>	<b>+ 29.5%</b>

**Figure 1:** The data above from the 5<sup>th</sup> edition of the World Female Imprisonment List (2022)<sup>18</sup> indicates the estimated percentage change (growth trend) in the female prison population from mid 2000-mid-2022.

## Ethical Considerations for Providing GBV Services - including GBV Case Management- to a Survivor in Detention/Prison

As outlined above, the co-occurrence of women’s incarceration/ detention and IPV presents compounding forms of violence and trauma. The need for psychosocial support and potential case management for these survivors is clear, however, the decision to deliver such services is not straightforward and the ethics of doing so must be carefully considered. Histories of unaddressed trauma, the culture of prison/ detention, and the likelihood of further exposure to violence and trauma present challenges to providing any type of psychosocial or therapeutic support to women and girls in such settings.<sup>19</sup> More specifically:

- 1. The prison (or detention) environment is predicated on power over and control:** ‘The ability of prisons to respond effectively to women’s sexual assault histories is restricted by the nature of the prison environment, which is based upon an ethos of power, control and surveillance—often for the purpose of maintaining security as well as punishment’ (Stathopoulos M. (2012), Bloom et al., 2003). This would also extend to all forms of GBV including IPV given their basis in abuse of power and control and because sexual violence is often part of IPV.
- 2. Retraumatizing practices occurring within the environment:** many practices which occur within prisons/detention may trigger re-traumatization for women and girls. One example of this is strip searches. (Stathopoulos M. (2012), Covington & Bloom, 2006; Eastal, 2001). “Strip searches can be a form of sexual abuse in and of themselves, and/or may serve to reproduce or cause women to “relive” past experiences of sexual and physical abuse. For example, a female prisoner and sexual

<sup>18</sup> The World Female Imprisonment List (5<sup>th</sup> edition, 2022) is part of the World Prison Brief, produced by the Institute for Crime & Justice Policy Research. [https://www.prisonstudies.org/sites/default/files/resources/downloads/world\\_female\\_imprisonment\\_list\\_5th\\_edition.pdf](https://www.prisonstudies.org/sites/default/files/resources/downloads/world_female_imprisonment_list_5th_edition.pdf)

<sup>19</sup> Stathopoulos M. (2012: 9-13). *Addressing Women’s Victimisation Histories in Custodial Settings*. (Australian Centre for the Study of Sexual Assault, Australia) [https://aifs.gov.au/sites/default/files/publication-documents/i13\\_0.pdf](https://aifs.gov.au/sites/default/files/publication-documents/i13_0.pdf)

assault victim/survivor cited in Pereira (2001) described her experience of prison strip-searches “as similar to sexual assault. I felt the same helplessness, the same abuse by a male in authority, the same sense of degradation and lack of escape” (p. 188).” (Stathopoulos M. (2012:10-11). Stathopoulos concludes that, “Consequently, strip-searches can be re-traumatizing, and have been linked to PTSD, none of which is conducive to women successfully engaging in therapeutic work (Pereira, 2001) [...They therefore] ““run counter to what [the victim/survivors] are learning in abuse survivor and empowerment groups” (p. 51), undermining efforts to address women’s trauma histories” (Stathopoulos M. (2012:11).

- 3. The usually short duration<sup>20</sup> of women and girls’ stay within the environment.** The short-term or transitory nature of women’s time in prison (including cycling through for repeated short periods of incarceration) presents another challenge as it is questionable as to whether any significantly impactful counselling therapy or psychosocial support can be undertaken with IPV survivors within short time frames within this specific type of environment. For example, short, disrupted time periods don’t allow for trust to be built overtime within the context of this service delivery relationship which can impact healing and recovery. In addition, as Stathopoulos explains, ‘many women may enter prison on remand, and will thus be housed in (generally) high security settings for a short period of time, without access to the rehabilitative and therapeutic programs available to convicted prisoners [this usually only applies in stable, non-conflict settings]; and, once their case is heard, they might simply be released with time served. Finally, high frequency cycling into and out of prison can increase feelings of uncertainty and instability in relation to housing, childcare and family connections.’<sup>21</sup> Transitions into and out of prison should not mean that women’s psychosocial and mental health support needs are not considered. Transitions can be times when protection and re-traumatization risks to women and girls who have experienced IPV increase.<sup>22</sup>

Given the above-mentioned challenges, some researchers and practitioners have gone so far as to indicate that it is ‘virtually impossible’<sup>23</sup> to engage in any meaningful, intensive trauma focused therapy in a detention or prison setting because the setting cannot serve both ‘punishment and therapeutic purposes’<sup>24</sup>. Yet, providing some basic support, such as active listening, healing statements and validation is likely to have value to most survivors and may help to reduce their sense of isolation, shame or self-blame.

What else should case workers think through in terms of additional ethical considerations before providing GBV services? In humanitarian settings, case workers should also consider:

- Whether the woman/girl is detained/imprisoned by an official or unofficial (e.g., state or non-state actor). In other words, consider the legitimacy of the status of the prison/detention center environment. If it is not a legitimate institution– then it is likely unethical to proceed and engage as a humanitarian actor, but service providers can pursue advocacy channels and contact specialized actors who work on detention for assistance (for e.g., ICRC).

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<sup>20</sup> Ibid. This is compared to data for the duration of men’s incarceration periods mostly available from Upper Middle Income Countries. See research by Baldry (with McComish & Clarence, 2009) found that women had a higher rate of custodial episodes per year compared to men, and that these were of shorter duration than those of men. The researchers concluded that there was a greater “rate of cycling in and out of prison”, particularly for women with complex needs (Baldry, with McComish, & Clarence, 2009).

<sup>21</sup> Stathopoulos M. (2012: 10-11). *Addressing Women’s Victimization Histories in Custodial Settings*. (Australian Centre for the Study of Sexual Assault, Australia) [https://aifs.gov.au/sites/default/files/publication-documents/113\\_0.pdf](https://aifs.gov.au/sites/default/files/publication-documents/113_0.pdf)

<sup>22</sup> Ibid. p.12.

<sup>23</sup> See Baldry, 2008; Pollock & Brezina, 2006.

<sup>24</sup> See Baldry, 2008: 9. Stathopoulos, 2012: 12-13.

- The status of the detained woman and girl and the impact this may have on their treatment in the context and specific detention setting. e.g., citizen, foreign citizen, asylum seeker, refugee, stateless person.
- If humane treatment and conditions have been secured for the woman/girl in detention. If yes, then consider proceeding, but, if not the priority must be to prior facilitate humane treatment and conditions for the woman/girl.<sup>25</sup> GBV caseworkers can liaise with relevant actors e.g., state, ICRC etc. Caseworkers may find it helpful to refer to the specific information contained within this document – Annex 1 - on specific elements from *The Bangkok Rules: United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders* to support efforts to improve conditions for women and juvenile girl prisoners and detainees.
- Is the woman/girl able to communicate with you in a safe, confidential setting? This applies whether meetings take place in person or remotely e.g., by phone/email. Is this communication at risk of being monitored/shared? It is very unlikely that a woman/girl in detention can speak freely, in a confidential setting with their GBV case worker within the prison/detention setting without the communication being monitored by third parties which can potentially increase risk to the woman/girl, and which is in breach of the GBV guiding principles.
- It is also important to consider to what extent will the survivor be able to access service referrals? If quite limited, carrying out a comprehensive assessment and case action planning may not be ethical?
- Case worker supervisors must also carefully consider the safety of case workers before authorizing a case worker to work with a woman/girl who is detention. Detention environments bring an increased level of risk/threat of violence and abuse to a case worker as well as other threats to health, safety and wellbeing. For example, fire/arson<sup>26</sup>, riots, unsanitary conditions which can lead to communicable diseases and illness etc.

## Disclosure and safety in prison/detention

“Exposing vulnerabilities, such as sexual abuse, within an environment that is hostile to healing may be at odds to prisoners’ personal safety needs (Pollock & Brezina, 2006). For example, some women have issues with disclosing sexual abuse to authorities whom they may not consider to be trustworthy, particularly because of negative encounters with such authorities in the past. Similarly, the use of group therapy approaches can be particularly problematic in a prison setting, as group therapy requires a safe and trusting environment. Other inmates can use information within the prison system as currency, and information pertaining to traumatic experiences may be used against the traumatized inmate at a later point in time. As Pollock (1998) noted, “in a prison environment, trusting other women with such information ... is extremely problematic” (p. 98) [...]. Thus, disclosure of traumatic experiences such as sexual assault in a prison environment may directly impact on the safety and wellbeing of an inmate during their period of incarceration.”

Stathopoulos M. (2012: 10). *Addressing Women’s Victimization Histories In Custodial Settings*. (Australian Centre for the Study of Sexual Assault, Australia)

[https://aifs.gov.au/sites/default/files/publication-documents/i13\\_0.pdf](https://aifs.gov.au/sites/default/files/publication-documents/i13_0.pdf)

<sup>25</sup> See Universal Human Rights Instrument - OHCHR Basic Principles for Treatment of Prisoners (Adopted by the UN General Assembly - resolution 45/111 -in 1990) <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-treatment-prisoners> Principle 1: “All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.” See also from the ICRC: “In all cases, the ICRC recommends humane treatment, individualized risk assessments, ensuring that restrictions are proportionate, necessary and legally-based, proper training for detention staff, and ensuring good order and security for all detainees, not just specific groups.” This statement was made by Mr. Robert Mardini, Permanent Observer to the United Nations and Head of Delegation, ICRC New York to Event: “The United Nations and the Shanghai Cooperation Organization: Cooperation to promote peace, security and stability; preventing the linking of terrorism with organized crime and its financing through drug trafficking”. (ICRC, 2019). <https://www.icrc.org/en/document/humane-treatment-all-detainees>

<sup>26</sup> In recent years there have been several reported deadly fire incidents in prisons in Latin America countries. This phenomenon is also not exclusive to Latin America with deadly fire incidents reported in Iran, Indonesia and Burundi by media outlets in recent years. Examples of media coverage include: <https://theconversation.com/behind-the-scenes-of-venezuelas-deadly-prison-fire-94276>

- Overall, detention settings are generally not conducive to creating a safe, positive, healing environment where a woman/girl can benefit from the implementation of a comprehensive case management process which would support her full range of needs and enable a multisectoral response to meet them. The benefits of providing GBV case management to a woman / girl in detention must outweigh the risks and it must be feasible to adhere to the GBV guiding principles, GBV case management guidelines and GBViE minimum standards. In sum, the safety of the survivor remains paramount.

## **What Can I Do to Help the Survivor Immediately If GBV Case Management is not an option at This Time?**

GBV case workers often find these types of situations challenging because they are motivated to help survivors. However, it is necessary in some situations to recognize the limitations of what can be offered and to consider harm that occurs when GBV case management is provided in settings which do not allow for adherence to the Interagency GBV case management guidelines and the Minimum Standards. There are some things caseworkers can do:

- Make sure the relevant agencies who are best placed to support the woman/girl in detention know the following information provided the survivor gives her informed consent for you to contact them:
  - Key essential personal data e.g., full name, date of birth., place of birth, alleged misdemeanor/crime to help them trace the woman/girl
  - Location where she is detained (facility name, wing etc.)
  - Her current living/health conditions and explain that she needs support to remedy this
  - Request and emphasize the agency keep you updated and notify you/your agency (give both specific and general information) on her living condition status and to notify you if she comes up for parole/release.
- Clearly communicate to the survivor the reasons why you can't provide GBV case management support at this time but explain the help you will be able to provide instead and tell her that the service will be open to her when the following criteria for safe and ethical service delivery are met:
  - i. Humane treatment and conditions in the place of detention
  - ii. Case management can occur in a safe, confidential setting
- Provide immediate basic psychosocial support (including healing statements) if the survivor is in distress. E.g., they are not alone, you are sorry this happened to them etc.
- Ask her and work with her in identifying an emergency contact person who could also liaise with the caseworker if needed (with her consent).
- Go over existing parts of a survivors' safety plan that remain relevant for the detention setting i.e., recalling strengths-based elements that can help the survivor through this situation e.g., Identifying family and friends support network.
- Try to understand from the survivor what the current level of contact and access is of the perpetrator. As part of immediate support, you may be able to strategize with her how to limit the access of the perpetrator.

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<https://www.washingtonpost.com/world/2021/09/08/indonesia-prison-fire/>  
<https://www.reuters.com/article/us-health-coronavirus-argentina-prison-idUSKCN226310>  
<https://apnews.com/article/iran-fires-prisons-violence-dubai-f609b115e8e580a7d09782ecf4cd737a>  
<https://www.bbc.co.uk/news/world-africa-59560444>



- Ask the survivor if she agrees to you mobilizing her family and friends support network and any other trusted organizations e.g., women’s rights activists/movements that can visit her or campaign for her release.
- If the survivor does not have access to fair, independent legal representation and advice in detention then i) advocate for this ii) seek her informed consent/assent to obtain this for her.
- Make sure you communicate to the survivor that they can contact you again when their living conditions improve/upon release and that your service will be available to them. (If this is accurate).

## **Additional Actions That Can Be Taken**

### ***During Detention***

- Maintain regular/periodic contact with agencies that can access and monitor the living conditions within the detention setting and who can check on the survivor routinely. If it is safe/feasible this may be those in charge of the detention setting, legal representatives, or another agency e.g., ICRC.
- Advocate jointly with other agencies to improve the living conditions of all persons in detention/prison where this is safe and feasible.
- As part of regular GBV assessments gather data and information to understand and monitor the risks and opportunities for engaging with those operating the detention.
- Mobilize the survivors’ trusted support network of family, friends, and any other trusted organizations. E.g., women’s rights activists/movements that can visit her in detention or help campaign for her release, if this is in accordance with her needs and wishes.
- Check that the survivor has consistent legal representation. If the lawyer/legal representative lacks training or understanding of IPV then seek guidance from your organization/supervisor on how this could be provided formally e.g., through training session(s) or informally through an information session on key concepts and survivor centered approaches. This is to support the delivery of safe, effective legal representation to IPV survivors.

### ***Planning for the Woman/Girls’ Release from Detention***

- If you should receive information from a verifiable source that a woman/girl is due for release from detention, then it may be important to re-establish contact with her or prepare to re-establish contact with her either by phone or through a brief visit if safe to do so). This is an opportunity to invite her to a Women and Girls Safe Space (WGSS) or other women’s center upon release or, if your organization can, to arrange for transportation to bring her to a safe space upon her release from detention, if she provides consent for this. It can be important for a woman/girl to know that help is available and that she has not been forgotten.
- You may also want to ask her if she has given any thought to where she will stay (i.e., shelter) upon her release to establish whether she has a safe place to stay (where the perpetrator is not present) immediately upon release or she would need some support to obtain safe shelter. This can help you to provisionally plan for this being a priority need for the woman/girls’ case action plan and safety plan upon release.
- Part of safety planning can also be considering what the plan will be for her if she is released and who else might know about or be informed about her release. In other words, does she know who the authorities will inform? Who can she inform first and create a chain of communication that maximizes her safety upon release? Does she have any idea of a safe place where she would go?

- Consider that a woman/girl may experience a range of feelings about being released. For some IPV survivors detention and imprisonment may be a form of respite or temporary relief from their primary abuser if he does not have regular access to her. This does not mean that they prefer to be in prison, but it is important that service providers not make assumptions that immediate release from detention/ prison is going to be safer or better for a survivor. She may feel happy, she may however feel fear and trepidation or a combination of these and many other emotions. As with every survivor, it is important to acknowledge and validate that she can and will have a range of emotions. This is normal especially given her experiences of IPV and she may be concerned about what the perpetrator will do to her if they become aware of her release.
- Consider that a woman/girl who is released from detention may have some immediate physical and psychological needs. For example, she is likely to need a dignity kit, hygiene kit supplies, clothing, cash and may require safe shelter or access to medical care.

### ***Upon Release from Detention***

- Woman/girl's health and safety should be the paramount concerns. Part of this is for the case worker to understand who may know about/have been informed about their release (see section above) and to try to support the woman and girls' immediate access to a safe location upon release if they are under threat.
- Follow a do no harm and survivor centered approach adhering to the GBV guiding principles.
- If your organization's resources allow and where a woman/girl has given informed consent, see if you can be present and have transportation ready and move with her from the detention setting to a women and girls' safe space. You would need to ensure that the abuser is not present and monitor the movement to protect the safety of the survivor and WGSS.
- Be aware that a woman/girl may experience a range of feelings upon release. She may feel happy, she may however feel fear and trepidation or a combination of these and many other emotions. This is normal especially given her experiences of IPV and she may be concerned about what the perpetrator will do to her now she has been released.
- Consider that a woman/girl who is released from detention will likely have some immediate physical and psychological needs. For example, she is likely to need a dignity kit, hygiene kit supplies, clothing, cash and may require safe shelter or access to medical care. Be ready to provide the supplies that you can as an organization and to work with the woman / girl's informed consent to develop her immediate safety plan and her case action plan working through what are her priorities for safe referral etc.

### **Conclusion**

Based on the available information there are significant risks and challenges which call into question the ethics and effectiveness of providing GBV services and in particular, case management, in detention /prison settings. These risks are often further exacerbated in humanitarian settings where detention/prison settings often lack resources to provide minimum humane and safe conditions or deliver, for example, comprehensive rehabilitation programs which factor for women and girls' experiences of violence and abuse. Delivery of case management services should therefore only be considered on a case-by-case basis with risks/benefits carefully assessed. It is essential that trained case workers are effectively supported in their assessment and decision-making by trained and supportive supervisors. Finally, it is essential that risks are regularly reassessed based on the available information. A survivor-centered approach should be used as the basis of this analysis, keeping the safety of the survivor front and center.

## Annex 1

### Information which can support advocacy for the safety and wellbeing of women and girls in detention or in prisons:

*The Bangkok Rules: United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary and accompanying General Assembly Resolution (A/RES/65/229).*

**The Bangkok Rules: United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary and accompanying Resolution (A/RES/65/229)** adopted by the General Assembly on 21 December 2010<sup>27</sup> are key instruments that it is important for GBV specialists, advocates and policy makers to be familiar with since they can be helpful when working to support improved conditions **specifically for women and girls** in detention or prison. The Bangkok Rules complement the *United Nations Standard Minimum Rules on Non-custodial Measures (the Tokyo Rules)* and the *United Nations Standard Minimum Rules on the Treatment of Prisoners (the Nelson Mandela Rules)*.<sup>28</sup> Below is a synopsis of the most directly relevant information with applicability to survivors of IPV but it is recommended that the source document is read in full, since there is additional information contained within which may directly support the specific needs of an individual survivor.

Source	Clause/Para.	What the text says
<p><b>The Bangkok Rules:</b> United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary (UNODC, 2011: 9) <a href="https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf">https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf</a></p>	<p>Rules of General Application: 4. <b>Allocation.</b></p>	<p>“Rule 4: 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.”</p> <p>Accompanying commentary note: <b>“Given women’s history with violence and exploitation, it should not be assumed that women’s former residence is a preferred or safe place for her to be released to (e.g., due to past abuse or expected future stigmatization) and her allocation close to services that will assist with social reintegration should therefore take account of this factor.”</b> (2011:25).</p>
<p><b>The Bangkok Rules:</b> United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures</p>	<p>I.6.a.e Rules of General Application: Health. <b>Medical</b></p>	<p>“The health screening of women prisoners shall include comprehensive screening to determine primary health-care needs, and also shall determine: [...] e) Sexual abuse and other forms of violence that may have been suffered prior to admission.”</p>

<sup>27</sup> See The Bangkok Rules: United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary (UNODC, 2011) which contains UN General Assembly Resolution A/RES/65/229 from the sixty-fifth session held on 21 December 2010.  
[https://www.unodc.org/documents/justice-and-prison-reform/Bangkok\\_Rules\\_ENG\\_22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf)

<sup>28</sup> See <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/tokyorules.pdf> and [https://www.unodc.org/documents/justice-and-prison-reform/Nelson\\_Mandela\\_Rules-E-ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf) for details on the Tokyo Rules and the Nelson Mandela Rules, respectively.

<p>for Women Offenders with their Commentary (UNODC, 2011: 9-10)  <a href="https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf">https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf</a></p>	<p><b>screening on entry.</b></p> <p>And Rule 7.1.2.3.</p>	<p>“Rule 7  If the existence of sexual abuse or  If the existence of sexual abuse or other forms of violence before or during detention is diagnosed, the woman prisoner shall be informed of her right to seek recourse from judicial authorities. The woman prisoner should be fully informed of the procedures and steps involved. If the woman prisoner agrees to take legal action, appropriate staff shall be informed and immediately refer the case to the competent authority for investigation. Prison authorities shall help such women to access legal assistance.  2. Whether or not the woman chooses to take legal action, prison authorities shall endeavour to ensure that she has immediate access to specialized psychological support or counselling.  3. Specific measures shall be developed to avoid any form of retaliation against those making such reports or taking legal action.”</p> <p>Accompanying commentary note:  “Rule 6 (1) Violence against women, especially sexual violence, has numerous short- and long-term sexual and reproductive health consequences for women. As such, <b>women prisoners represent a high-risk group for sexual and reproductive health diseases. It is vital to diagnose any reproductive or sexual health diseases as early as possible and provide appropriate treatment.</b> As regards testing for HIV, it is essential that <b>informed consent is sought and secured non-coercively</b> before HIV/AIDS testing or medical interventions are provided to prisoners and that <b>the process of securing consent specifically allows prisoners to refuse such testing and treatments.</b>” (2011:26).</p>
<p><b>The Bangkok Rules:</b>  United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary (UNODC, 2011: 10)  <a href="https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf">https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf</a></p>	<p>I.6.a.e  Rules of General Application: Health. <b>Medical screening on entry.</b></p> <p>Rule 8.</p>	<p>“Rule 8  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.”</p> <p>Accompanying commentary note:  “Rule 8. International standards guarantee the right to medical confidentiality for all individuals, including prisoners. <b>Women may have particular safety and security concerns in relation to their reproductive health history, and therefore should never be coerced into giving information, which they feel</b></p>

<p><b>The Bangkok Rules:</b> United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary (UNODC, 2011: 11) <a href="https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf">https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf</a></p>	<p>I.6.c Rules of General Application: Health. <b>Mental Health and Care</b></p> <p>Rule 12 Rule 13</p>	<p><b>may put them at risk. In this context women should have the right to refuse vaginal screening/hymen examination.”</b> (2011:28).</p> <p>Rule 12 “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 noncustodial settings.”</p> <p>Rule 13 “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.”</p> <p>Accompanying commentary note: “Rule 12. High levels of domestic violence and physical and sexual abuse against women prior to their imprisonment have been documented in countries worldwide. <b>Women who are admitted to prison are more likely than men to suffer from mental health problems, often as a result of domestic violence, physical and sexual abuse.</b> This Rule underlines <b>the need to ensure that mental health care provided in women’s prisons should be gender sensitive and interdisciplinary. Women’s distinctive mental health-care and psychological support needs should be recognized, including for example, those who demonstrate acute distress and depression due to isolation, separation from children, families and communities.</b> Rule 12 expressly underlines that treatment should be individualized and aim to address the reasons that provoke distress, depression, as well as psychiatric problems, based on a integrated and holistic approach of counselling, psychosocial support and medication, if necessary. This Rule takes account of the reality that in many prison systems women prisoners’ unique mental health-care needs are not adequately understood or treated, symptoms are addressed rather than the underlying reasons that lead to mental health problems. <b>Too often women are prescribed medication to overcome their distress or depression, rather than being provided with psycho-social support, based on individual assessments.</b> While counselling and treatment should be offered whether a woman is in pre-trial detention or sentenced, depending on the average length of time spent in pre-trial detention in each jurisdiction, long term treatment programmes may begin only if a woman is sentenced and therefore expects to stay a</p>
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		<p>longer period of time in prison. Where possible and appropriate, treatment in the community, with adequate security measures, should be considered for such women, taking account of the negative impact of imprisonment on mental health.”</p> <p>“Rule 13: <b>Women are particularly susceptible to mental distress and depression at certain times, for example on admission to prison, due to separation or loss, upon receiving negative information from home, following the delivery of a child, following the experience of any act of victimization or violence,</b> during menopause, after separation from a child previously in the prison with her and prior to release. Thus the rule encourages the adoption of an institutional policy to ensure staff awareness and training to recognize symptoms of mental distress and to respond to needs in an appropriate manner, by responding to the women’s need with understanding and <b>referring them to specialised support, as necessary (e.g., psycho-social support services, including those provided by specialised organisations of civil society, non-governmental organisations, etc.).</b>” (2011: 29-30).</p>
<p><b>The Bangkok Rules:</b> United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary (UNODC, 2011: 11) <a href="https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf">https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf</a></p>	<p>I.6.f Rules of General Application: Health. <b>Suicide and self-harm prevention</b></p> <p>Rule 16</p>	<p>Rule 16 “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.”</p>
<p><b>The Bangkok Rules:</b> United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary (UNODC, 2011: 13) <a href="https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf">https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf</a></p>	<p>I.7.d. Rules of General Application: Safety and security. <b>Information to and complaints by prisoners; inspections.</b></p> <p>Rule 25. Para. 2</p>	<p>Rule 25. “2. Women prisoners who have been subjected to sexual abuse, and especially those who have become pregnant as a result, shall receive appropriate medical advice and counselling and shall be provided with the requisite physical and mental health care, support and legal aid.”</p>
<p><b>The Bangkok Rules:</b></p>	<p>I.8.</p>	<p>Rule 26</p>

<p>United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary (UNODC, 2011: 13)</p> <p><a href="https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf">https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf</a></p>	<p>Rules of General Application: Safety and security.</p> <p><b>Contact with the outside world.</b></p> <p>Rule 26 Rule 28</p>	<p>“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.”</p> <p>Rule 28 “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.”</p>
<p><b>The Bangkok Rules:</b> United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary (UNODC, 2011: 14)</p> <p><a href="https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf">https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf</a></p>	<p>I.9. Rules of General Application: Safety and security.</p> <p><b>Institutional personnel and training.</b></p> <p>Rule 31</p>	<p>Rule 31. “Clear policies and regulations on the conduct of prison staff aimed at providing maximum protection for women prisoners from any gender-based physical or verbal violence, abuse and sexual harassment shall be developed and implemented.”</p>
<p><b>The Bangkok Rules:</b> United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary (UNODC, 2011: 14)</p> <p><a href="https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf">https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf</a></p>	<p>I.10. Rules of General Application: Safety and security.</p> <p><b>Juvenile female prisoners</b></p> <p>Rule 38</p>	<p>Rule 38 “Juvenile female prisoners shall have access to age- and gender- specific programmes and services, such as counselling for sexual abuse or violence.”</p>
<p><b>The Bangkok Rules:</b> United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary (UNODC, 2011: 16)</p> <p><a href="https://www.unodc.org/">https://www.unodc.org/</a></p>	<p>II.A.1.2.4 Rules Applicable to Special Categories.: A. Prisoners under sentence. I. Classification</p>	<p>Rule 42. <b>“4. Particular efforts shall be made to provide appropriate services for women prisoners who have psychosocial support needs, especially those who have been subjected to physical, mental or sexual abuse.”</b></p>

<p><a href="https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf">documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf</a></p>	<p>and individualization. <b>2. Prison Regime.</b></p> <p>Rule 42. 4.</p>	<p>Accompanying commentary note: “Gender sensitive programmes offered to women prisoners to address the underlying causes that led to their offences and to assist in strengthening their confidence, self assurance and parenting skills may include therapeutic programmes, self-help groups and consultation dealing with substance abuse, mental health, <b>history of abuse and domestic violence</b>; parenting programmes, including child visitation programmes and parent education; and <b>special programmes to build confidence and life skills</b>. Programmes to assist women to live independent lives may include programmes to develop administrative skills, bookkeeping, computer skills, painting and decorating, cooking/catering, horticulture, hairdressing, gardening, women’s health, childcare, dressmaking, embroidery managing income generating community projects and the use of micro-credit facilities.</p> <p>Programmes offered should also include others which are not traditionally considered as appropriate for women, due to gender stereotyping.” (2011: 39).</p>
<p><b>The Bangkok Rules:</b> United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary (UNODC, 2011: 16) <a href="https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf">https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf</a></p>	<p>II.A.1.2.4</p> <p>Rules Applicable to Special Categories.: A. Prisoners under sentence. I. Classification and individualization. <b>2. Prison Regime. Social relations and aftercare.</b></p> <p>Rule 44 Rule 45 Rule 46</p>	<p><b>Rule 44</b> <b>“In view of women prisoners’ disproportionate experience of domestic violence, they shall be properly consulted as to who, including which family members, is allowed to visit them.”</b></p> <p>Rule 45 “Prison authorities shall utilize options such as home leave, open prisons, halfway houses and community-based programmes and services to the maximum possible extent for women prisoners, to ease their transition from prison to liberty, to reduce stigma and to re-establish their contact with their families at the earliest possible stage.”</p> <p>Rule 46 “Prison authorities, in cooperation with probation and/or social welfare services, local community groups and non-governmental organizations, shall design and implement comprehensive pre- and post-release reintegration programmes which take into account the gender-specific needs of women.”</p> <p>Accompanying commentary note: <b>“Rule 44. This Rule aims to protect women from visits from those who may have abused or exploited them in the past and who the prisoners</b></p>



		<p><b>themselves do not wish to have contact with.”</b> (2011: 40).</p> <p>“Rules 45-47. These Rules take account of the particular support requirements of women during their social reintegration and re-entry to society, following release. Although many problems women face during re-entry are similar to those of men, the intensity and multiplicity of their post-release needs can be very different. <b>Women are likely to suffer particular discrimination after release from prison, due to social stereotypes. They might be rejected by their families and in some countries they may lose their parental rights. If they have left a violent relationship, women will have to establish a new life, which is likely to entail economic, social and legal difficulties, in addition to the challenges of transition to life outside prison.</b> Women are likely to have particular support requirements in terms of housing, reunification with their families and employment, and will need assistance. Women are more likely than men to have been treated for a mental health problem in prison and will be in need of continued psychiatric treatment or counselling after release. Former prisoners experience high rates of drug-related accidents, overdose and death. The risk of renewed drug or alcohol abuse is high among all former prisoners, particularly during the early stages following release, when the myriad difficulties associated with re-entry may lead to despair and relapse into former habits. The high rate of substance addiction among women offenders may therefore pose a significant obstacle to successful reintegration. <b>Pre-release preparation and post-release support policies and programmes are typically structured around the needs of men and rarely address the gender specific needs of women offenders, with targeted continuum-of-care in the community after release. These rules aim to emphasize prison authorities’ responsibilities in ensuring that women receive the maximum possible support during this time, to ensure their effective resettlement and care and to reduce rates of re-offending.”</b> (2011:40).</p>
<p><b>The Bangkok Rules:</b> United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary (UNODC, 2011: 19)</p>	<p>III. <b>Non custodial measures</b></p> <p>Rule 60</p>	<p>Rule 60</p> <p><b>“Appropriate resources shall be made available to devise suitable alternatives for women offenders in order to combine non-custodial measures with interventions to address the most common problems leading to women’s contact with the criminal justice system. These may include therapeutic courses and counselling for victims of</b></p>

[https://www.unodc.org/documents/justice-and-prison-reform/Bangkok\\_Rules\\_ENG\\_22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf)

**domestic violence and sexual abuse;** suitable treatment for those with mental disability; and educational and training programmes to improve employment prospects. **Such programmes shall take account of the need to provide care for children and women-only services."**

**Commentary notes for non-custodial measures section.**

"Rule 57-58. Since a large proportion of women have mental health-care needs, are drug and/or alcohol dependent, **suffer from the trauma of domestic violence or sexual abuse, diverting them to a suitable gender appropriate treatment programme would address their needs much more effectively than the harsh environment of prisons."** (2011:43).

[...]

"Rule 59. **In some countries detention may be used as a form of protection for victims of rape, to protect the victim as well as to ensure that she will testify against her rapist in court. This practice is unacceptable, further victimising women and putting them at risk of further abuse. Most importantly, this practice deters women from reporting rape and sexual abuse, thereby allowing perpetrators to escape justice.** In relation to the detention of women for purposes of protection, specifically, the 2003 report of the Working Group on Arbitrary Detention to the Commission on Human Rights stated: "In its annual report for 2001 (E/CN.4/2002/77 and Add. 1 and 2), the Working Group had recommended, with regard to the detention of women who have been the victims of violence or trafficking, that recourse to deprivation of liberty in order to protect victims should be reconsidered and, in any event, must be supervised by a judicial authority, and that such a measure must be used only as a last resort and when the victims themselves desire it."<sup>65</sup> A number of other forms of custody, to "protect" women or to protect others' security are used in other countries, which are covered by this rule. Although in exceptional cases such custody may be justified for limited periods due to the lack of more appropriate alternatives, **every effort needs to be made for the development of protection means which do not involve imprisonment, to enable authorities not to have to resort to this unacceptable and discriminatory practice. Where such detention is used, it should always be subject to supervision by an independent judicial authority and the women involved should be provided access to legal counsel**

		<p><b>in making such decisions.</b> In this context, note should also be taken of the UN Declaration on the Elimination of Violence against Women, Article 4, which provides: “States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should: f) Develop, in a comprehensive way, preventive approaches and all those measures of a legal, political, administrative and cultural nature that promote the protection of women against any form of violence, and ensure that the re-victimization of women does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions;” (2011: 44-45).</p> <p>“Rule 61. This rule takes account of the typical background of many women offenders. <b>A significant proportion of women who commit violent offences commit them against their husbands or partners in response to systematic abuse.</b> A large number of women offenders worldwide are imprisoned for minor drug related offences, often as a result of manipulation, coercion and poverty. [...] <b>Rule 61 therefore calls specifically for provisions to allow judges to take account of the circumstances of the offence committed, as well as the caring responsibilities of the women involved, in decision-making and calls on Member States to consider removing mandatory sentencing policies in order for the judicial authorities to be in a position to use their discretion during sentencing.</b>” (2011: 45).</p>
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## Annex 2

### Case Study

A seventeen-year-old girl was detained by police authorities in a conflict affected location in the Middle East. She was alleged to have been spying for another state. The girl had been residing in a shelter for women and girls affected by GBV after experiencing child sexual abuse, early marriage, intimate partner violence and then being at risk of honor-based violence, however, she had exited the shelter for a weekend – without the knowledge of the shelter supervisors - and was arrested during her time outside of the shelter. It was alleged that she had spent time in the neighboring state (which she was accused of spying for) during her time outside of the shelter and that she was 'in contact with various men'.

During her time in the shelter the girl was living with depression and was self-harming by cutting herself as a coping mechanism for the abuse she had experienced. She had no family member she could reside with safely. She was struggling to cope with the idea that she may need to live in a shelter for the rest of her life due to the level of threat against her and had exited the shelter 'for some release'.

Given the seriousness of the allegations against the girl the shelter was notified of her detention, and staff were interviewed by the authorities. This put shelter management and staff under significant pressure in this specific context. Additionally, rumors and disinformation began to swirl within and outside of the shelter environment about the girl's 'reputation' putting her at risk of further harm of so-called honor-based violence. The rumors began to escalate rapidly that the shelter was a hub for 'spying' and that women and girls were 'prostitutes'. The girl's case worker raised concerns that the girl would struggle to cope in detention, given the seriousness of the alleged charges against her that she had already tried to leave the shelter and her mental health. The case worker wanted to be able to continue to visit the girl and provide psychosocial support.

#### ***So, what was considered for this survivor in relation to case management under these circumstances?***

First and foremost, it is important to note the girl's case worker's absolute motivation was to continue to support the girl survivor despite the significant hurdles and challenges in this situation.

An interagency case conference was held within 48 hours of the girl's detention with the objective of piecing together the available case information which each agency held on the survivor and with the objective of putting in place an agreed case action plan for the survivor in detention.

However, representatives from the agency detaining the girl were in attendance, to provide a summary of the case from their vantage point and supplied information regarding the grounds upon which the survivor was being deprived of liberty and likely outcome of the case. They also declared their interest in the shelter as an environment of interest for possible further investigation. Their presence at the meeting was not negotiable in the operating context at that time and it is relevant to mention this in relation to how this could have influenced the outcome of the meeting, which ended in a lack of clear inter-agency action plan to support the survivor.

Information gained from the agency detaining the girl:

- The girl was being isolated from other girls i.e., held in solitary confinement.
- She was held on suspicion of alleged spying.
- There was no date specified for a hearing.

- Agencies were being asked to consider the girl an ‘enemy of the state’ not a ‘victim of abuse’ and there was a need to root out and stop other women and girls living in the shelter from being entrapped into ‘becoming spies like her’.
- The conditions where she was held were not humane and also escalated concerns for her physical and psychological health and wellbeing.

### **What next?**

Given the above, continuing case management with her case worker was not safe for the girl in the short term since GBV guiding principles could not be upheld in the detention setting and the safety of the GBV case worker, other shelter staff and residents and the survivor could have been compromised further.

As a result, the following actions were put in place in the short term:

- The case worker discussed with her supervisor if it would be safe for her to visit the girl in the detention center and it was determined from an assessment of all the available information that it was not safe at that specific time for the case worker or for the girl to continue meeting, this decision would be reviewed on a bi-weekly basis and then on a monthly basis informed by all available sources of information including updates on the girls’ physical / holding conditions from the lawyer.
- The case worker asked the girl via telephone call for her informed assent to seek legal representation i.e., a lawyer and delivered psychological first aid and healing statements to the girl on the call. She explained the limits to her ability to support the girl but assured her regarding what she could do to help her i.e., seek lawyer, mobilize support network of friends etc. for visitation, welfare checks through a third party agency. A verbal reminder of her strengths and resilience strategies and relevant aspects of her safety plan e.g., her positive coping skills (e.g., her artistic and writing abilities to express herself using paper/pen materials in detention and her close friend network and support from a sibling).
- The case worker sought the involvement of third-party agencies who specialize in supporting persons in detention who also negotiate for improvements in conditions to ensure they are humane
- The case worker continued to maintain contacts with the lawyer and third-party agency and the survivors’ trusted visitor network to understand the girl’s situation and to support preparations in case of a change in conditions that could support GBV case management.
- The shelter management continued to advocate with the relevant point of contact within the detaining authority to inform them of the specific criteria which placed the girl at additional risk of harm and potential exploitation i.e., history of abuse including IPV plus complex support needs and steps needed to support her safety and wellbeing and to consider her support needs as a survivor of abuse.

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