

1997/36. International cooperation for the improvement of prison conditions

The Economic and Social Council,

Gravely alarmed by the serious problem confronting many Member States as a result of prison overcrowding,

Convinced that conditions in overcrowded prisons may affect the human rights of prisoners,

Bearing in mind the Standard Minimum Rules for the Treatment of Prisoners,¹⁸⁰ adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977,

Recalling General Assembly resolution 45/111 of 14 December 1990, adopted on the recommendation of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,¹⁹¹ by which the Assembly affirmed the Basic Principles for the Treatment of Prisoners, annexed to that resolution,

Recognizing that prison overcrowding requires the implementation of effective policies directed towards the rehabilitation of prisoners and their social reintegration, as well as the application of the Standard Minimum Rules for the Treatment of Prisoners and the Basic Principles for the Treatment of Prisoners,

Mindful of the fact that the physical and social conditions associated with prison overcrowding may result in outbreaks of violence in prisons, a development that could pose a grave threat to law and order,

Recalling the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules),¹⁷¹

Recalling also the resolutions on the conditions of prisoners adopted by United Nations congresses on the prevention of crime and the treatment of offenders, in particular resolution 16 on reduction of the prison population, alternatives to imprisonment and social integration of offenders and resolution 17 on the human rights of prisoners, both adopted on 6 September 1985 by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,¹⁹²

Taking note of the resolution adopted at the seminar entitled "Criminal justice: the challenge of prison overcrowding", organized by the Latin American Institute for the Prevention of Crime and the Treatment of Offenders with the support of the European Commission, and held at San José, Costa Rica, from 3 to 7 February 1997, in which it was recommended, *inter alia*, that the number of prisoners should not exceed the number that could be held in decent conditions,

Taking note also of the Kampala Declaration on Prison Conditions in Africa, annexed to the present resolution,

Noting the nomination of a special rapporteur on prisons in Africa by the African Commission on Human and Peoples' Rights, in accordance with recommendations contained in the Kampala Declaration,

Mindful that many Member States lack the necessary resources to resolve the problem of prison overcrowding,

1. *Requests* the Secretary-General to provide assistance to countries, at their request and within existing resources or, where possible, funded by extrabudgetary resources if available, for the improvement of their prison

¹⁹¹ See *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. A.

¹⁹² See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August–6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

conditions in the form of advisory services, needs assessment, capacity-building and training;

2. *Invites* other entities of the United Nations system, including the United Nations Development Programme and the United Nations Crime Prevention and Criminal Justice Programme network, as well as intergovernmental organizations, to assist the Secretary-General in implementing the request contained in paragraph 1 above;

3. *Urges* Member States, if they have not yet done so, to introduce appropriate alternatives to imprisonment in their criminal justice systems;¹⁹³

4. *Recommends* that Member States, if they have not yet done so, adopt appropriate effective measures to reduce pre-trial detention;

5. *Invites* international and regional financial institutions such as the World Bank and the International Monetary Fund to incorporate into their technical assistance programmes measures to reduce prison overcrowding, including the construction of adequate infrastructure and the development of alternatives to imprisonment in criminal justice systems;

6. *Requests* the Commission on Crime Prevention and Criminal Justice to discuss the issue of prison overcrowding in the context of technical cooperation at its eighth session, with a view to achieving greater international cooperation in that area;

7. *Requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its eighth session on the implementation of the present resolution.

*36th plenary meeting
21 July 1997*

ANNEX

Kampala Declaration on Prison Conditions in Africa

Prison conditions

Considering that in many countries in Africa the level of overcrowding in prisons is inhuman, that there is a lack of hygiene, insufficient or poor food, difficult access to medical care, a lack of physical activities or education, as well as an inability to maintain family ties,

Bearing in mind that any person who is denied freedom has a right to human dignity,

Bearing in mind also that the universal norms on human rights place an absolute prohibition on torture of any description,

Bearing in mind further that some groups of prisoners, including juveniles, women, the old and the mentally and

physically ill, are especially vulnerable and require particular attention,

Bearing in mind that juveniles must be separated from adult prisoners and that they must be treated in a manner appropriate to their age,

Remembering the importance of proper treatment for female detainees and the need to recognize their special needs,

The participants in the International Seminar on Prison Conditions in Africa,¹⁹⁴ held at Kampala from 19 to 21 September 1996, recommend:

1. That the human rights of prisoners should be safeguarded at all times and that non-governmental agencies should have a special role in this respect;

2. That prisoners should retain all rights which are not expressly taken away by the fact of their detention;

3. That prisoners should have living conditions which are compatible with human dignity;

4. That conditions in which prisoners are held and the prison regulations should not aggravate the suffering already caused by the loss of liberty;

5. That the detrimental effects of imprisonment should be minimized so that prisoners do not lose their self-respect and their sense of personal responsibility;

6. That prisoners should be given the opportunity to maintain and develop links with their families and the outside world;

7. That prisoners should be given access to education and skills training in order to make it easier for them to reintegrate into society after their release;

8. That special attention should be paid to vulnerable prisoners and that non-governmental organizations should be supported in their work with these prisoners;

9. That all the norms of the United Nations and the African Charter on Human and Peoples' Rights¹⁹⁵ on the treatment of prisoners should be incorporated into national legislation in order to protect the human rights of prisoners;

10. That the Organization of African Unity and its member States should take steps to ensure that prisoners are detained in the minimum conditions of security necessary for public safety.

Remand prisoners

Considering that in most prisons in Africa a great proportion of prisoners are awaiting trial, sometimes for several years,

¹⁹³ See the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) (General Assembly resolution 45/110, annex) and *Human Rights and Pre-trial Detention: Handbook of International Standards relating to Pre-trial Detention* (United Nations publication, Sales No. E.94.XIV.6).

¹⁹⁴ The seminar was organized jointly by Prison Reform International and the African Commission on Human and Peoples' Rights, in partnership with the Foundation for Human Rights Initiative and the Government of Uganda through the Prisons Department, and with the participation of the International Committee of the Red Cross and International Prison Watch.

¹⁹⁵ United Nations, *Treaty Series*, vol. 1520, No. 26363.

Considering also that for this reason the procedures and policies adopted by the police, the prosecuting authorities and the judiciary can significantly influence prison overcrowding,

The participants in the International Seminar on Prison Conditions in Africa, held at Kampala from 19 to 21 September 1996, recommend:

1. That the police, the prosecuting authorities and the judiciary should be aware of the problems caused by prison overcrowding and should join the prison administration in seeking solutions to reduce this;

2. That judicial investigations and proceedings should ensure that prisoners are kept in remand detention for the shortest possible period, avoiding, for example, continual remands in custody by the court;

3. That there should be a system for regular review of the time detainees spend on remand.

Prison staff

Considering that any improvement in conditions for prisoners will be dependent on staff having pride in their work and a proper level of competence,

Bearing in mind that this will only happen if staff are properly trained,

The participants in the International Seminar on Prison Conditions in Africa, held at Kampala from 19 to 21 September 1996, recommend:

1. That there should be a proper career structure for prison staff;

2. That all prison personnel should be linked to one government ministry and that there should be a clear line of command between the central prison administration and the staff in prisons;

3. That the State should provide sufficient material and financial resources for staff to carry out their work properly;

4. That in each country there should be an appropriate training programme for prison staff to which the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders should be invited to contribute;

5. That there should be a national or subregional institution to deliver this training programme;

6. That the penitentiary administration should be directly involved in the recruitment of prison staff.

Alternative sentencing

Noting that, in an attempt to reduce prison overcrowding, some countries have been trying to find a solution through amnesties or pardons or by building new prisons,

Considering that overcrowding causes a variety of problems, including difficulties for overworked staff,

Taking into account the limited effectiveness of imprisonment, especially for those serving short sentences, and the cost of imprisonment to the whole of society,

Considering the growing interest in African countries in measures which replace custodial sentences, especially in the light of human rights principles,

Considering that community service and other non-custodial measures are innovative alternatives to imprisonment and that there are promising developments in Africa in this regard,

Considering also that compensation for damage done is an important element of non-custodial sentences,

Considering further that legislation can be introduced to ensure that community service and other non-custodial measures will be imposed as an alternative to imprisonment,

The participants in the International Seminar on Prison Conditions in Africa, held at Kampala from 19 to 21 September 1996, recommend:

1. That petty offences should be dealt with according to customary practice, provided that this meets human rights requirements and that those involved so agree;

2. That, whenever possible, petty offences should be dealt with by mediation and should be resolved between the parties involved without recourse to the criminal justice system;

3. That the principle of civil reparation or financial recompense should be applied, taking into account the financial capability of the offender or of his or her parents;

4. That the work done by the offender should, if possible, recompense the victim;

5. That community service and other non-custodial measures should, if possible, be preferred to imprisonment;

6. That there should be a study of the feasibility of adapting successful African models of non-custodial measures and applying them in countries where they are not yet being used;

7. That the public should be educated about the objectives of these alternatives and how they work.

African Commission on Human and Peoples' Rights

Considering that the African Commission on Human and Peoples' Rights has the mandate to ensure the promotion and the protection of human and peoples' rights in Africa,

Considering also that the Commission has shown on many occasions its special concern on the subject of poor prison conditions in Africa and that it has adopted special resolutions and decisions on this question previously,

The participants in the International Seminar on Prison Conditions in Africa, held at Kampala from 19 to 21 September 1996, recommend that the African Commission on Human and Peoples' Rights:

1. Should continue to attach priority to the improvement of prison conditions throughout Africa;

2. Should nominate a Special Rapporteur on Prisons in Africa as soon as possible;

3. Should make the member States aware of the recommendations contained in the present Declaration and publicize United Nations and African norms and standards on imprisonment;

4. Should cooperate with non-governmental organizations and other qualified institutions in order to ensure that the recommendations contained in the present Declaration are implemented in all the member States.