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Activity Report of the Special Rapporteur on Prison and Places of Detention in Africa

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1. In discharging my mandate as Special Rapporteur on Prison and Other Places of Detention in Africa, I had during the intersession between May and October 2011, undertaken a prison's promotion mission, attended meetings and conferences on penal and prison reforms and participated in a 'Prison Reform Interventions in Africa Project.'
2. Honourable Colleagues and Delegates to the 50th Ordinary Session, the principal activity of the Special Rapporteur is to inspect prisons and other places of detention in Africa, and to ensure the protection of persons in detention or in prison. In that regard the Government of the Federal Republic of Nigeria accepted my request to inspect prisons and other places of detention. I visited detention and related facilities in the country from 24 August to 2 September 2011. During my visit I held talks with high ranking officials including the ministers responsible for the relevant portfolios dealing with prisons in particular and detention in general. I

also held talks with relevant NGOs working in the field of prisons in the country. The Report of this Mission will be presented at this Session for discussion and adoption.

3. On 6 and 7 September 2011, I hosted in Lagos, a 'Stakeholders Strategy Session on Implementing Penal Reforms Recommendations in Lagos, Nigeria, to examine and evaluate some of the important penal recommendations that have been drawn up by various Governments in Nigeria over the last decade and exchange views on how, Nigeria can move from perpetual penal and prison recommendations to real implementation. It is public knowledge that prison overcrowding is one of the most challenging problems faced by criminal justice system in Nigeria, placing an enormous financial burden on the Government and other institutions interested in the administration of justice. The Strategy Session came up with concrete proposals which I hope to share with the Government of the Federal Republic of Nigeria soon.
4. On the 'Prison Reform Interventions in Africa Project' - this is a activity carried out by the African Commission through the office of the Special Rapporteur on Human and Peoples' Rights in partnership with Prisoners' Rehabilitation and Welfare Action (PRAWA), the African Correctional Services Association, the International Corrections and Prisons Association (ICPA), UNAFRI, the Institute for Development and the University of Nigeria.
5. In the past six months, I have carried out the following activities under this project: Following the completion of baseline survey of prison conditions and level of reform interventions in the six pilot countries (that is, Burundi, Democratic Republic of Congo, Nigeria, Kenya, Rwanda and Zambia), focus was given on the provision and support to the respective prison services this includes:

(a) Development of a Database on Prison Conditions in Africa and Compendium of Best Practices. Questionnaires on the Issue of Conditions and Management of Prison Population (including on issues of pre-trial detention) was developed and translated into all the official AU languages - English, French, Arabic and Portuguese and distributed to all Member States of the African Union. I want to use this opportunity to commend the following countries that have duly completed and returned their questionnaires - namely, Algeria, Burundi, Cameroon, Ghana, Kenya, Nigeria and Uganda and South Africa. I am calling on all the countries that are yet to return their questionnaires to please do so, so that we can commence with the process of the developing the database and the compendium. There will also be available copies of this questionnaire at the registration desk for those wishing to collect copies to complete. We will also be developing two other sets of questionnaires relating to prison and community-based rehabilitation programmes and prison health (including issues of communicable diseases, HIV/AIDS and Mentally-disable prisoners.

(b) I also participated at the International Conference on Prisons and Correctional Services in Singapore, from 11 - 16 September 2011. I attended this Conference along with delegates from other African countries including those from the six project pilot countries. This offered me the opportunity to engage with a wide range of professionals in the field of prisons and correctional services. I also used the opportunity to sensitize the conference participants on the work of the African Commission.

6. From 19 - 21 September 2011, at the invitation of Penal Reform International, I attended a conference on the death penalty, in London, on the theme: 'Abolition of the Death Penalty - Recent Trends in Sub-Saharan

Africa and the Role of the African Commission on Human and Peoples' Rights on the Abolition of the Death Penalty'. The Conference was part of a series of activities organized by PRI and its partners to provide a worldwide platform for debate and discussion on the question of the death penalty.

7. I delivered a paper that informed the conference about the work of the African Commission on the issue of the death penalty in Africa. I informed the conference that the African Commission has adopted two resolutions urging States Parties to the African Charter to observe a Moratorium on the death penalty. I also stated that since the adoption of those two resolutions, the African Commission has moved towards engaging the African public in a debate on the death penalty with a view of adopting a protocol on the abolition of the death penalty in Africa.

Conclusion

8. Let me conclude by taking this opportunity to make some general comments about the state of affairs regarding prisons and conditions of detention on the continent and proffering some recommendations. I am saddened by reports sent to me personally and press reports about the deplorable state of detention on the continent. Apart from reports about the prevalence of communicable diseases such as HIV/AIDS and tuberculosis, I have also received reports about the poor hygienic conditions, deaths in prison, unacceptable levels of overcrowding, inadequate nutrition, poor recreational and rehabilitation facilities.
9. But amongst those not so good reports which I continually receive, I must however, state that I am glad to note that in some countries governments are reacting to poor prison conditions and putting additional resources to improve places of detention. I also note that many states like the Kingdom of Swaziland, South Africa and Tunisia, just to name a few, are making a real effort to ensure that appropriate rehabilitation measures are available

in places of detention so that those released do not find themselves back in prisons.

Recommendations

- (a) On prison overcrowding which is the major challenge of the criminal justice system in many places in Africa – the problem usually starts from the time of arrest. The African Charter and other international instruments demands that arrested persons are promptly charged and brought before a judge. Such person must be tried within a reasonable period of time. These legal provisions should be enforced to prevent arbitrary arrests and detention, and to safeguard the right to liberty of all persons. It will also enable the courts to determine if pre-trial detention is necessary and permit the suspect to challenge the legality of his arrest and detention. It will also help to reduce overcrowding.
- (b) The African Commission is encouraging States Parties to release inmates on self bail who pose little or no risk to society, or where the crime is not a serious one.
- (c) States Parties should also explore the use of alternative modes of punishment, like community work. Courts should seriously consider handing down alternative sentences to expectant and nursing mothers including elderly people of more than seventy years, instead of sending them to prison.
- (d) Penal and prison reform is also about finding the political will to carry out necessary reforms. Transforming the entire criminal justice and rule of law system in many African states especially with regard to the prison system should be the goal of addressing penal issues in Africa. In that regard, I do understand that resource allocation is key challenge. Funding for the prison service remains meagre in many African countries. Whilst political rhetoric focuses on combating crime, budget allocations do not reflect these sentiments. As a result of budget constraints, funds for everything – from providing decent accommodation and food for inmates to training of staff are limited with the result that progress towards transformation is slow and often incomplete. Maybe it is time for our States Parties to renew their commitment for penal and prison reforms.