

**THE SPECIAL RAPPORTEUR ON PRISONS AND CONDITIONS OF DETENTION
IN AFRICA**

INTERSESSION ACTIVITY REPORT

OF

**THE SPECIAL RAPPORTEUR ON PRISONS AND CONDITIONS OF DETENTION
IN AFRICA**

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Introduction

Generally speaking, African prisons are far below acceptable international prison standards. Those who are imprisoned still live in poor conditions: insufficient food allocations, inadequate access to health care and medical services, lack of hygiene, sanitation and scarcity of water. . In most of the prisons, men and women share facilities. There is no strict separation within the prison according to the risk. Men and women, children and adults, civilians and soldiers, suspected and already sentenced prisoners, are most of the time mixed indiscriminately together in the majority of the African prisons. This situation puts women at the risk of rape or attack by male inmates, prison guards or staff. It also violates women prisoners' rights to safety and to privacy. In most African prisons, there are no special child detention facilities or rehabilitation or reformatory facilities. Some children are held together with their detained mothers.

There is no special care for the sick prisoners, those infect with tuberculosis (TB), and sexually transmitted diseases, as well as those infected with HIV or those with AIDS, and prisoners with mental illness. Most often, prisoners with mental illness are ignored by prison officials and those whose behaviour could pose a risk to staff or other prisoners are chained day and night or put in confinement or isolation without receiving any treatment for their condition.

It is obvious that African prisons encounter lot of challenges. These include lack of good governance, limited amount of funding towards prisons and other resources. Also, many African governments don't prioritize prisons' rights. Even though prison officers in charge of prisons point out the need to increase funding allocated to prison services in order to address and improve the condition of prisoners such as overcrowding, malnutrition, and filthy water. It is also true that a number of organizations have committed themselves to improve the prison conditions in Africa by promoting

prisoners' rights. In addition, the African Commission on Human and Peoples' Rights which operate under the auspice of the African Union as well as the Special Rapporteur on Prison and Conditions of Detention in Africa have played an important role in improving prison conditions throughout Africa.

The following are activities I undertook as Special Rapporteur of the African Commission on Prisons and Places of Detention in Africa:

1. From the 27 to 29 November 2012, I attended the African HIV in Prisons Partnership Network (AHPPN) Conference during the 6th Steering Committee Meeting and Commemoration of the World Aids Day and Livingstone Central Prison in Livingstone Zambia. The meeting was focused on efforts that governments and other stakeholders should make in order to improve the HIV response in prisons and how to provide health care to prisoners infected with HIV and AIDS.
2. From 12 to 14 December 2012, I attended a Workshop on enhancing cooperation between the United Nations and regional human rights mechanisms in Geneva. Day 1 (12 December), the workshop was on the following topics:
 - Taking stock of progress in cooperation between UN and regional human rights mechanisms
 - How to improve information sharing between UN and regional human rights mechanisms on the example of prevention of torture mandates and activities
 - The role of NHRIs, NPMs and NGOs in information sharing

Day 2 (13 December) the following points were discussed:

- Joint activities between UN and the regional human rights mechanisms

- The role of NHRIs and NGOs in joint activities
- How to improve follow up action to recommendations issued by UN and regional human rights mechanisms on the example of mandates and activities related to children's rights
- The role of NHRIs and NGOs in follow up to decisions and recommendations of UN and regional human rights mechanisms

In general, the workshop was a good avenue in enhancing the collaboration between the UN and the regional mechanisms.

3. On 11th to 12th February 2013, I participated in a forum on Indigenous Peoples' Development Issues in Africa and the Working Group on Indigenous Populations/Communities in Africa hosted by the African Development Bank in Tunis, Tunisia. During the welcome cocktail on 11 February 2013 Commissioner Fadel and I briefed participants on the work of the Commission and the Working Group, and thanked the Bank for responding positively to the letter sent to the Bank by Commissioner Maiga. At the end of the of the Forum participants strongly urged the Bank to adopt a stand-alone policy on indigenous peoples' and in such policy to adopt the criteria set by the Working Group in identifying indigenous peoples. Participants also urged the Bank to work closely with the Working Group and other stakeholders in developing and executing the policy.

4. From the 19th to 25th February 2013, I took part in the 13th Extra-Ordinary Session of the African Commission held in Banjul, Gambia. During the Session, many communications were examined on seizure as well as on admissibility. The Commission made a statement on the Trial and Sentencing of Twenty-Five Sahrawi Civilians by a Military Court in Morocco and adopted resolutions on situations / countries, concluding observations and reports mission of promotion.

On the 22th February 2013, I presided over a meeting to finalize the zero draft of the Guidelines on the Use and Conditions of Police Custody and Pre Trial Detention in Africa so that it could be sent out for consultation. The meeting was held in Kairaba Hotel with the association of APCOF and SADC Lawyers Association.

5. From the 11th to 20th March 2013, I participated in a joint human rights promotion mission to the Republic of Chad. The major purpose was to promote the African Charter and other regional human rights instruments. During the mission we visited two prisons: Kélo and Doba prisons. We met with the Minister of Justice, the Red Cross, and the Minister of Human Rights and Fundamental Freedom and amongst others. We discussed the prison conditions in Chad particularly those which have been destroyed such as N'Djamena prison.

From a general point of view, I discerned that prisons in Chad need to do more in order to be in conformity with international prison standards. This is drawn from the fact that we were not allowed to visit prisons of our own choice let alone being guided to those we visited.

Recommendations

It is clear that Criminal justice reform is a fundamental part of prison reform and considerable efforts need to be made to reform the Criminal justice system in Africa. In that regard, Governments should make more accurate efforts aimed at reforming the criminal justice system and aim to make penal policy, primarily rehabilitative rather than punitive. In this wise, in terms of prison management, African governments should have a prison system that can be managed in a fair and humane manner, national legislation, policies and practices must be guided by the international

standards developed to protect the human rights of prisoners. Prison authorities have a responsibility to ensure that the supervision and treatment of prisoners is in line with the rule of law, with respect to human rights, and that the period of imprisonment is used to prepare individuals for life outside prison following release. In this wise, I commend the Republic of Chad to manage prisons in line with the International human rights standards.

Governments should give priority to prison services in their national budgets in order to improve the condition of prisoners. More efforts must also be put into improving access to justice, cooperation between courts and prisons, to speed up the processing of cases to reduce overcrowding. Also to decrease overcrowding, Governments should plan to build new prisons that comply with the international standards and new facilities to make a clear and strict separation inside the prisons. Efforts should be made on healthcare and the right to health of prisoners.

The Commission has made considerable efforts by adopting quite a lot of resolutions on the standards of prisons in Africa including the Resolution on the Adoption of the Ouagadougou Declaration and Plan of Action on Accelerating Prison and Penal Reform in Africa. However, the Commission should put more efforts into making prison more self sufficient, promoting rehabilitation and reintegration programs and encouraging best practices.

The Special Rapporteur and partners continue to put efforts of helping African governments to make prison conditions more humane and in line with the international standards by cooperating with relevant stakeholders, organizing seminars, workshops and exchange and visiting prisons and places of detention, in order to sensitize governments and raise awareness and give proper recommendations.