



Twelfth United Nations Congress on Crime Prevention and Criminal Justice

Distr.: Limited
16 April 2010

Original: English



Salvador, Brazil, 12-19 April 2010

Report of Committee II on agenda item 8 and Workshop 2

Addendum

Workshop on the Survey of United Nations and Other Best Practices in the Treatment of Prisoners in the Criminal Justice System

Proceedings

1. At its 4th and 5th meetings, on 15 April 2010, Committee II held the Workshop on the Survey of United Nations and Other Best Practices in the Treatment of Prisoners in the Criminal Justice System. The Workshop was organized with the assistance of the European Institute for Crime Prevention and Control, affiliated with the United Nations, and with input from the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) and the International Centre for Criminal Law Reform and Criminal Justice Policy. The Committee had before it the following documents:

(a) Background paper on the Workshop on the Survey of United Nations and Other Best Practices in the Treatment of Prisoners in the Criminal Justice System (A/CONF.213/13);

(b) Discussion guide (A/CONF.213/PM.1);

(c) Reports of the regional preparatory meetings for the Twelfth Congress (A/CONF.213/RPM.1/1, A/CONF.213/RPM.2/1, A/CONF.213/RPM.3/1 and A/CONF.213/RPM.4/1).

2. The Workshop was moderated by Justice Antonio Cezar Peluso of the Supreme Court of Brazil.

3. The Workshop consisted of five panels, in which a total of 19 presentations were made. At the 4th meeting of the Committee and first meeting of the Workshop, a keynote address was made by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. The Workshop considered the implementation and review of international standards relating to imprisonment,



social reintegration as the objective of the treatment of prisoners and the oversight and monitoring of prisoners.

4. During the discussion, statements were made by the representatives of the Russian Federation, Indonesia, Morocco, Italy, Angola and the Islamic Republic of Iran.

5. The Secretary-General of the Conference of Ibero-American Ministers of Justice presented the San José Declaration on the access to rights for those deprived of their liberty.

6. At the 5th meeting of the Committee, the Workshop considered special groups having special rights and needs and the mobilization of society and resources for improving the social reintegration of prisoners. The panel on special groups with special rights considered the following three subthemes: health in prisons; women in prison, including children of imprisoned mothers; and children and young people.

7. During the discussion, statements were made by the representatives of China, Argentina, Saudi Arabia and the United States of America. A statement was also made by the observer for the Inter-American Development Bank. The observer for the Friends World Committee for Consultation also made a statement.

8. The scientific rapporteur summarized the conclusions of the Workshop.

General discussion

9. In his keynote address, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment took stock of his five years in that position, during which time he had visited places of detention on four continents, interviewed hundreds of detainees and looked into allegations of torture and other forms of ill-treatment, as well as into the conditions of detention. His conclusion was that detainees were among the most vulnerable and forgotten human beings in our societies, that torture and ill-treatment were widespread practices in the majority of countries and that the conditions of detention were appalling and in many cases amounted to inhuman treatment. In view of more than 10 million persons deprived of their liberty and the alarming conditions of their detention, he noted the pressing need for an enforceable human rights instrument, such as a convention on the rights of persons deprived of their liberty, to address their specific vulnerability and provide for the rights of those persons.

10. In the panel on implementation and review of international standards, two panellists presented the general report of the Latin American Standing Committee of the International Penal and Penitentiary Foundation, which contained a proposed revision of the Standard Minimum Rules for the Treatment of Prisoners. The proposed revision was the outcome of many years of work by specialists, and it was hoped that it would serve as a stimulus for the updating of the Standard Minimum Rules. One panellist underlined the need for a legally binding document, such as a convention, to protect the rights of detainees and proposed setting a limit on the number of individuals imprisoned in order to improve the treatment of prisoners and conditions in prisons by reducing overcrowding. Another panellist introduced an international prison policy development tool designed by the International Centre for Criminal Law Reform and Criminal Justice Policy to assist in training prison staff and to guide authorities in developing operational policies in prisons. The tool

had been translated into Russian and used successfully in training prison staff in the Russian Federation. Another panellist addressed the need for a prisons component in peacekeeping operations in post-conflict countries, the state of prison systems and prisons in the wake of civil war and the challenges that peacekeeping missions faced in strengthening or re-establishing prison systems in post-conflict countries. Mention was made of the successful collaboration between the Department of Peacekeeping Operations of the Secretariat and the United Nations Office on Drugs and Crime (UNODC) in Southern Sudan, which could be replicated elsewhere to improve the effectiveness of prison reform projects in post-conflict countries.

11. In the panel on social reintegration as the objective of the treatment of prisoners, panellists agreed that achieving the social reintegration of offenders and prisoners was the most important, and the most challenging, task of prison authorities and correctional services. One panellist, giving an example from his country, underlined that success depended on the engagement of society, the quality of prison staff and rehabilitation programmes and access to spirituality practices and health care in prisons. Another panellist provided information about a specific Canadian project on community supervision, which emphasized interventions by probation officers to facilitate prosocial cognitive change in moderate- to high-risk offenders. Preliminary results suggested that the supervision model had been successful in reducing re-offending.

12. In the panel on oversight and monitoring of prisoners, the Vice-Chair of the subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment explained the Subcommittee's mandate under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 57/199, annex). In reviewing the issue of the desirability of creating a specific network for the prevention of torture, he noted that an analysis of efforts in recent years to eradicate or reduce torture had revealed that the large number of international standards and bodies created within the United Nations system had not been adequate in that respect. Efforts needed to be intensified and better coordinated within the United Nations system, between UNODC and the Office of the United Nations High Commissioner for Human Rights, and with regional organizations. In his view, the Twelfth Congress was an ideal forum to encourage intensified efforts to ensure better compliance with existing rules and treaties. Another panellist outlined the positive changes that had taken place in South Africa since the entry into force in 1996 of the new Constitution, which included special provisions for the rights of detainees. The judicial inspectorate established in South Africa had become a model and totally independent monitoring body that had helped to improve the situation of prisoners significantly.

13. In the discussion that followed, the Secretary-General of the Council of Ministers of the Latin American Countries presented the San José Declaration on the access to rights for those deprived of their liberty, which related to health, work and education in prisons and included separate rules for women prisoners. The Declaration included practical recommendations for improving detainees' access to those rights. A number of speakers made statements explaining measures that their Governments had taken to amend national legislation to comply with the Standard Minimum Rules for the Treatment of Prisoners, and ways in which they had improved the provision of rehabilitation programmes for prisoners and prison

management. One participant explained the difficulties in harnessing resources for the prison system in low-income countries recovering from years of conflict.

14. At its 4th meeting, the Workshop focused on special groups with special rights and needs. The first panel addressed health-care services in prisons. By way of introduction, one panellist summarized the main aspects of imprisonment having a negative impact on health, namely prison conditions, the high rate of risk behaviour among prisoners, inadequate health-care services, isolation of health-care services from public-health services and the denial by authorities of the existence of health problems in prisons. Against that background, the panel considered three successful examples of improved health care in prisons achieved through a specific focus on reducing drug dependence and improving HIV/AIDS prevention, treatment and care. In Spain, the use of antiretroviral treatment, the provision of condoms and bleach, peer education, harm reduction programmes and methadone substitution therapy had led to significant success in reducing the transmission of HIV and hepatitis C virus, drug addiction and aggression in prison. Another panellist outlined the successful national health programme being implemented in Argentina, which was based on coordination between all the relevant ministries and the federal penitentiary services. The successful example of HIV/AIDS prevention and care and drug abuse treatment programmes in the Republic of Moldova demonstrated that health-care services could be improved in prisons even in countries with scarce resources.

15. The second panel examined the situation of women and their children in prisons. One panellist introduced the topic with a summary of the situation of women in prison worldwide, highlighting the growth observed in the size of the female prison population. A film was shown on the situation in Afghanistan of women in prison with children. Another panellist drew attention to the recent improvements in the situation of women in prison in Afghanistan, including the construction of two new women's prisons to enable the separation of women and men prisoners, the provision of education and vocational training in prisons and staff training. Challenges still remained, however; the number of women prisoners was increasing rapidly, and sustainable programmes were needed to enable the social reintegration of women, who were often abandoned by their families because of their having been in prison. Another panellist outlined a project that had been improving the lives of women prisoners in Thailand and that country's efforts to develop a set of supplementary rules for the treatment of women prisoners and non-custodial measures for women offenders supplementing the Standard Minimum Rules for the Treatment of Prisoners and the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules). UNODC had been closely involved in that process, as mandated by Commission on Crime Prevention and Criminal Justice resolution 18/1. The draft rules emerging from the process had been submitted to the Twelfth Congress for consideration and action. Another panellist focused on the situation of women prisoners in Latin America, expressing the view that imprisonment should be used as a means of last resort for women who had small children or were pregnant; reference was made to existing good practice in some Latin American countries. She recommended the use of the UNODC *Handbook for Prison Managers and Policymakers on Women and Imprisonment* to improve the treatment of women and their children in prisons.

16. The third panel reviewed the situation of children and young people in prison. One panellist presented a programme to improve the social reintegration of girls in

conflict with the law in Lebanon. With technical assistance provided by UNODC, a juvenile justice reform process was under way in that country and the rehabilitation of girls held in juvenile detention centres was being improved with individualized support and the provision of a range of services. Another panellist underlined that the Convention on the Rights of the Child and other relevant instruments were very clear about the treatment of children in conflict with the law, emphasizing that imprisonment should be used only as a last resort in the case of juveniles. Authorities needed to develop a comprehensive approach to respond to children in conflict with the law. That approach should be based on bringing national law in line with international standards, ensuring that deprivation of liberty was used only as an exception in the case of children. Work needed to be undertaken to guarantee that members of the judiciary and law enforcement agencies achieved a better understanding of the alternatives available and made broader use of them. There was also a need to clearly assess the economic and social costs of deprivation of liberty.

17. At its final meeting, the Workshop addressed the mobilization of resources for improving the social reintegration of prisoners. The importance of appropriate and regular dissemination to the public of information about the prison service was underscored as a prerequisite for raising public awareness about prisons; and the impact of public attitudes on the formulation of government policy was highlighted as a core element in the mobilization of resources to improve conditions in prisons.

18. During the discussion that followed the presentations, one speaker provided information about the steps taken by his Government to achieve the rehabilitation of prisoners convicted of terrorist crimes. Another speaker explained action that had been taken to implement the Standard Minimum Rules, as well as assistance provided to other countries in that respect. He expressed support for updating the Standard Minimum Rules, but had reservations about the introduction of a convention on prisoners' rights. Another speaker observed that violence and criminality were among the main obstacles to development and stated his institution's commitment to providing technical and financial support to improve the functioning of criminal justice systems.

19. One speaker stated her organization's endorsement of the draft rules for women prisoners put forward by Thailand, called for the increased use of restorative justice in the case of women prisoners, highlighted the need to improve health care in prisons and drew attention to the benefits of consulting prisoners when devising prison policies and strategies. She also encouraged UNODC to develop guidance on the treatment of the children of women prisoners.

Conclusions and recommendations

20. The Workshop made the following recommendations to the Twelfth Congress:

(a) The Congress should reiterate and emphasize the central importance of the Standard Minimum Rules for the Treatment of Prisoners, as they represent good principle and practice in the treatment of prisoners and the management of institutions;

(b) The Congress should take action to improve the legal framework relating to prisoners, with consideration being given to the revision and updating of the Standard Minimum Rules for the Treatment of Prisoners, and, in the shorter term, it

should endorse the draft United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders;

(c) The Congress should encourage Member States to reaffirm their commitment to meeting the requirements of international standards in respect of the treatment of prisoners, in particular the Standard Minimum Rules for the Treatment of Prisoners, and it should consider urgently how those requirements can be met. Such consideration should include measures to reduce overcrowding, which represents the largest single barrier to compliance with international standards. It should also involve reviews, where necessary, of the law, policy, practice and budgetary allocations relating to imprisonment;

(d) Bearing in mind the dire state of prisons in Member States emerging from conflict and the crucial importance of establishing functioning civilian criminal justice systems with regard to peacebuilding and the re-establishment of the rule of law, the Congress should consider giving much higher priority to the strengthening or reconstruction of prison systems in post-conflict settings to bring them into compliance with the requirements of international standards, and to the provision of adequate resources by donors to achieve this;

(e) The Congress should encourage Member States to develop the necessary policies and institutional infrastructure to ensure that prisons are used sparingly and fulfil their proper role;

(f) The Congress should encourage Member States to integrate prison health into broader community health structures and to assign responsibility for the management and provision of prison health services to the same ministries, departments and agencies providing health services to the general population. Where this is not achievable in the short term, action should be taken to significantly improve cooperation and collaboration between prison health services and community health services;

(g) The Congress should encourage Member States to commit the necessary resources to provide a prison system in compliance with the Standard Minimum Rules for the Treatment of Prisoners, drawing those resources from national and, where appropriate, international sources, and to mobilize the energies of civil society, local communities, relevant government departments and authorities at the local and national levels;

(h) The Congress should encourage Member States that have not yet done so to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and give priority to the establishment of mechanisms of accountability, independent external inspection and oversight and monitoring;

(i) The Congress should encourage UNODC to continue providing to Member States, upon request, technical assistance for prison reform, including in the form of tools and training, and Member States should provide UNODC with the requisite resources to do so.