THE ADVOCATE

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DECONGEST PRISONS TO PREVENT MORE JAIL BREAKS, INVESTIGATE KILLINGS: CURE-NIGERIA TELLS FEDERAL GOVERNMENT.

MR. SYLVESTER UHAA
The Executive Director of CURE-Nigeria

The Executive Director of CURE-Nigeria, Mr. Sylvester Uhaa has called on the Federal Government to take immediate steps to decongest the overcrowded prison system to prevent further jail breaks. He said this in Abuja while reacting to the wave of prison breaks in the country, which he said, is attributable to the prison overcrowding, primarily due to the high numbers of awaiting trial persons, many of whom await trial for more than five years. Mr. Uhaa, lamented that more than a year after the ACJ Act 2015 which provided for non-custodial methods such as probation, community service and other alternatives to incarceration, its implementation remains zero. 'More than a year after the enactment of the Act, I am not aware of anyone who has been released on probation or sentenced to community service, everyone is going to prison, leading to prison overcrowding, and putting pressure on the already weak and inadequate prison facilities. This is one reason why we are witnessing a wave of jail breaks in the past few months. I advice the Prison System particularly the Ministry of Interior that instead of focusing on investigations into individual jail breaks, the Federal Government should set up a task force to decongest the prisons as well as make funds available to ensure the full implementation of the ACJ Act in order to deal with the root causes of prison overcrowding' he said. 'If you look at all the jails breaks, most of the inmates involved are pre-trial detainees, to tell you that pre-trial detention is the main cause of jail breaks, so we have to do something fast to eliminate it', he added.

He blasted the government of Obasanjo and Jonathan for not doing anything to upgrade the decayed prison infrastructure and improving the welfare of prison staff and prisoners to meet acceptable standards. 'I am surprised that even Obasanjo, who emerged from the prison to the Presidency forgot where he came from and did not do anything to improve prison conditions, he lamented. People in prison are people, not animals, and they have rights as everyone else; their rights must be defended and protected by the State.' I am calling on President Buhari to invest in the prison system by upgrading the prisons, and invest in prisoner rehabilitation through the introduction of education programs and viable vocational skills to ease the return of ex-prisoners into society and reduce the high rates of recidivism. One way to do this is to recruit teachers to teach in prisons and set up a fund to pay for education of people in prison. He lamented that almost two years after his organisation, with support from the Australian High Commission in Abuja, the Federal Ministry of Justice and other international partners, shipped in a 40 foot container of books and bought thousands of syllabus-based books and writing materials to donate to prison libraries, the books are still in the organisation's warehouse because the Prison System has not been able to provide book shelves in the libraries to take in the books, citing lack of funding as reason. 'All we need is for the Prisons to provide books shelves, reading tables and chairs in 10-15 prisons of its choice in Nigeria, and CURE-Nigeria would donate the books and materials there, nothing else is required, he said. We spent $15,700 dollars for shipping and over 1.Million Naira on clearing, transporting the container to Abuja, off-loading and cataloguing the books, and my heart bleeds that we are still paying for a store to keep the books two years after.' He said the organisation has written a letter to the Interior Minister on the matter, and we are happy that he is taking steps to take in the books.

Reacting to the shooting of inmates in Abakiliki Prison during a foiled jail break as reported in the Media, Mr. Uhaa called on the National Human Rights Commission to launch a full scale investigation into the matter to determine what happened, stressing that the State has an obligation to protect all citizens from arbitrary deprivation of the right to life, and when a deprivation occurs as in this case, the State has a duty to investigate the matter to determine whether or not the deprivation was arbitrary, and whether the use of lethal force was a last resort, and proportionate. Accountability also requires that those found wanting must be prosecuted and punished and appropriate compensation must be paid to victims. Failure to investigate is in itself a violation of the right to life.

INTERIM REPORT OF THE SPECIAL RAPPORTEUR ON TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

....Review of the Standard Minimum Rules for the Treatment of Prisoners

Overview Since their adoption in 1955, the Standard Minimum Rules for the Treatment of Prisoners have retained considerable weight as an authoritative set of generally accepted principles and practices for the treatment of prisoners and the management of penitentiary institutions. Even though some provisions are now dated, the Rules continue to be vital and are considered to be among the most important soft-law instruments for the interpretation of various aspects of the rights of prisoners. The Special Rapporteur notes that, whether in response to evolving threats and practices or simply because of neglect, Governments are often remiss in upholding these standards. The present report contains specific recommendations aimed at updating the Rules to ensure the humane treatment of persons in detention and advocates for their effective implementation at the global level. The international and regional systems that oversee prison conditions operate largely with a view to preventing torture and other ill-treatment. The Special Rapporteur recalls that, as explained in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the term "cruel, inhuman or degrading treatment or punishment" should be interpreted so as to extend the widest possible protection against abuses. In paragraph 10 of its resolution 65/230, the General Assembly requested the Commission on Crime Prevention and Criminal Justice to establish an open-ended intergovernmental expert group to exchange information on best practices and on the revision of existing United Nations standard minimum rules for the treatment of prisoners so that they reflect recent advances in correctional science. The first meeting of the Expert Group established in response to that request was held in 2012 and attended by 143 representatives from 52 States (see UNODC/CCPCJ/EG.6/2012/1, para. 9). At that meeting, there was general agreement that although the Rules had stood the test of time and were universally acknowledged as the minimum standards for the detention of prisoners, some areas of the Rules needed to be reviewed (paras. 4 and 5). The consensus among the Expert Group was that any changes to the Rules should not lower any of the existing standards (para. 4). Moreover, the ExpertGroup identified nine preliminary areas for possible review (para. 5). The Economic and Social Council, in its resolution 2012/13, and the General Assembly, in its resolution 67/188, subsequently took cognizance of the recommendations of the Expert Group and took note of the areas identified for review. At its second meeting, held in Buenos Aires in December 2012, the Expert Group made substantive progress and identified issues for further discussion within the targeted areas (UNODC/CCPCJ/EG.6/2012/4). By its resolution 2013/35, the Council again took into consideration the nine areas identified for revision and decided to extend the mandate of the Expert Group, authorizing it to continue its work with a view to reporting to the Commission on Crime Prevention and Criminal Justice at its twenty-third session. In that same resolution, the Council invited Member States to continue to be engaged in the revision process by submitting proposals and to participate actively in the next meeting of the Expert Group, to be held in Brazil towards the end of 2013.26. In the following sections, the Special Rapporteur examines the nine targeted areas (see General Assembly resolution 67/188, para. 6) and offers a set of procedural standards and safeguards from

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WOMEN'S EXPERIENCES OF ABUSE AS A RISK FACTOR FOR INCARCERATION

By Mary E. Gilfus

"My crime--being addicted to alcohol and drugs. My crime--being a survivor of domestic violence. My crime--being a survivor of incest. My crime--being an American Indian woman" (Ogden, 2000-2001, p. 20).

The battered women's movement has relied heavily on the criminal justice system to protect women from male violence, but this has had negative consequences for many women of color and their communities who have historically been more harmed than protected by the system. Women of color activists call for both the battered women's movement and the prison abolition movement to join together to stop violence against women who are "victimized by both interpersonal and state violence" (Incite, 2002; Rodriguez, 2000-2001, p.17).

This paper describes how violence perpetrated against women and girls increases their risk of arrest and incarceration through the intersections of interpersonal and structural violence. The processes that place victims under correctional control are the "criminalization" of women's survival strategies (Chesney-Lind, 1997) and "entrapment" into crime by abusers and by gender, race and class oppression (Richie, 1996). Once entrapped and criminalized, women are re-victimized and subjected to "enforcement violence" by the state through coercive laws, immigration policies, social welfare policies and law enforcement practices (Bhattacharjee, 2001).

This review of the research on incarcerated women and girls identifies six, sometimes overlapping, pathways through which abused girls and women are placed at risk for incarceration. The process of criminalization is most evident in the lives of (1) abused and runaway girls; (2) women forced to live and work on the streets; and (3) women addicted to substances. The process of entrapment affects the above three groups of women but also applies to (4) women arrested for economic crimes, sometimes coerced by batterers; (5) women arrested for harm to children or abusers; and (6) women affected by enforcement of discriminatory and coercive welfare, immigration and corrections policies. Once abused and socially harmed women become labeled as offenders they are even more at risk for repeated victimizations and entrapments that keep women imprisoned literally and figuratively. The framework presented here takes into account the diversity of abused women who are subjected to correctional control.

Victimization in the Lives of Incarcerated Women and Girls

Most studies of incarcerated women have observed high rates of victimization that link violence in women's lives to their entry into the criminal justice system as defendants (Arnold, 1990; Browne, 1987; Browne, Miller, & Maguin, 1999; Chesney-Lind, 1997; Daly, 1994; Danner, Blount, Silverman, & Vega, 1995; Gilfus, 1987,1992; Katz, 2000; Leonard, 2002; Owen, 1998; Richie, 1996.). Richie (1996) observed patterns of entrapment by abusive partners into crime in her study of African-American battered women in jail in New York City. Daly (1994) identified several pathways by which primarily poor women of color become involved with the courts. Miller (1986) described extensive victimization and exploitation in the lives of "street women" and Chesney-Lind and Rodriguez (1983) and Gilfus (1987, 1992) identified early and repeated abuse as antecedents to women's entry into crime.

Government surveys of state and federal prisoners estimate that 43% to 57% of women in state and federal prisons have been physically or sexually abused at some time in their lives (Harlow, 1999; Greenfield & Snell, 1999; Snell & Morton, 1994). One-third of incarcerated women report child sexual abuse and 20% to 34% report abuse by an adult intimate partner; they have multiple abuse histories and are three to four times more likely than male prisoners to have abuse histories (American Correctional Association, 1990; Harlow, 1999; Snell & Morton, 1994). While these rates may not be substantially higher than in the general population of women (see Tjaden & Thoennes, 2000), these surveys probably under-report rates of abuse because they ask only a few general screening questions to determine victimization. Researchers agree that more extensive measures of behaviorally specific experiences result in higher and probably more accurate, prevalence rates (Browne, et al., 1999; Schwartz, 2000).

In contrast, smaller and more in-depth studies using expanded measures of abuse have found that nearly all girls and women in prison samples have experienced physical and sexual abuse throughout their lives (Bloom, Chesney-Lind, & Owen, 1994; Browne, et al., 1999; Fletcher, Rolison, & Moon, 1993; Gilfus, 1987, 1992; Owen, 1998; Richie, 1996). A study of 150 women at a maximum security prison for women in New York State (Browne, et al., 1999) found that fully 94% of the women reported severe physical or sexual abuse during their lives. Eighty-two percent of the women had been abused as children and 75% had experienced adult intimate partner abuse. Not only was the prevalence of abuse extremely high, but the abuse was also severe and cumulative over the life course of the women. A recent study by the Chicago Coalition for the Homeless (2002) reported that 53% of a sample of 235 women in Cook County Jail had been abused as children and 66% had been victims of domestic violence.

CONSEQUENCES OF ABUSE AS CORRELATES WITH RISKS OF INCARCERATION

Browne and colleagues found parallels between the well-known long-term effects of exposure to violence and the reasons for which the women in their study were incarcerated, particularly running away from home, re-victimization, drug and alcohol addictions and prostitution (Browne, et al., 1999).

Studies of women sexually abused as girls find that onset of drug and alcohol abuse, self-harm, depression, suicidal ideation, relationship disturbances, running away from home and entry into prostitution are frequent negative consequences of child sexual abuse (Banyard, Williams, & Siegel, 2001; Briere, 1996; Chu, 1998; Follette, Polusny, Bechtle, & Naugle, 1996; Herman, 1997; van der Kolk, 1996). Longer duration and severity of abuse appear to increase the risk of negative outcomes. Trauma at early stages of development may alter brain chemistry and cognitive functioning, interfering with concentration, school performance and the capacity to discern and interpret cues from the environment regarding danger and risk (van der Kolk, 1996). Flashbacks, hypervigilance and emotional flooding may alternate with states of psychological numbing or dissociation (Briere, 1996; Herman, 1997). The desire for relief from trauma symptoms may lead survivors to self-medicate with drugs or alcohol to invoke the numbing state; on the other hand, numbing may lead some survivors to engage in risk-taking and self-injury behaviors in order to feel alive again (Briere, 1996; Chu, 1998).

Sexual predators tend to play on children's loyalty and desire for affection, leaving abused children confused about social relationships and the distinctions among sex, love and violence (Briere, 1996; Finkelhor & Browne, 1988). Sexually abused girls have a high rate of sexual revictimization (Crowell & Burgess, 1996; Koss, et al., 1994), perhaps because perpetrators tend to target vulnerable young people who may have little or no adult protection. The absence of at least one caring adult or a stable family life, failure at school and poor social skills increase the likelihood that a child will not be able to overcome the adversity of abuse, especially in environments characterized by poverty, racism and social disorganization (Benard, 1991; Hyman & Williams, 2001; McFarlane, 1996).

In retrospective studies, women at risk for incarceration--women who work as prostitutes (Farley & Kelley, 2000; J. Miller & Jayasundara, 2001; Silbert, & Pines, 1981), women with drug addictions (Frye, El-Bassel, Gilbert, Rajah, & Christie, 2001; Moreno, El-Bassel, Gilbert, & Wada, 2002), women with alcohol problems (Clark & Foy, 2000) and homeless women (Browne & Bassuk, 1997; Wenzel, Leake, Gelberg, 2001)--report very high rates of child sexual abuse and adult physical and sexual abuse.

PATHWAYS FROM VICTIMIZATION TO INCARCERATION

A synthesis of the research on incarcerated and high-risk women suggests several pathways by which abused women enter the criminal justice system as defendants rather than as victims. The six pathways presented here may not be exhaustive and often converge and overlap. The first three pathways best reflect the process of criminalization by which girls' and women's resources for escaping and surviving abuse are so limited that they must depend on illegal activity for income. They are subjected to intensive law enforcement surveillance for behaviors labeled as criminal primarily for girls and women only. The last three pathways are more reflective of the process of entrapment by which battered women are forced into crime by abusers and/or poverty and are forced into the criminal justice system by laws and practices that entrap battered women. However, criminalization and entrapment tend to be at work for all six groups of women. The final pathway, enforcement violence, is a process that cuts across all of the first five pathways but can also be a separate and direct route to incarceration.

Processes that Criminalize Girls and Women's Efforts to Escape Violence

Abused and runaway girls. The American Correctional Association (1990) reported that 54% of girls incarcerated in U.S. juvenile correctional settings surveyed in 1987 had been sexually abused, 61% had been physically abused and the majority had been abused multiple times. Over 80% of girls had run away from home and over half had attempted suicide (ACA, 1990). Girls are more likely than boys to be incarcerated for status offenses, which are behaviors that are not criminal--such as running away, truancy, "incorrigibility," and being deemed a child in need of supervision (Chesney-Lind, 1997). Early juvenile involvement in the criminal justice system is highly predictive of adult incarceration and recidivism (Greenfield & Snell, 1999). Arnold (1990) used the concept of structural dislocation to describe young black women in jail who had been sexually and physically abused. They were alienated from school by racist education systems and had no support from family, school, work, or community as homeless runaways. Initially they were referred to juvenile court as abused and neglected children, but they left the system labeled as offenders (Arnold, 1990). In such cases, being processed by the courts can turn young women into criminal defendants rather than victims of crimes. Abused girls of color are more likely to be processed by the criminal justice system and labeled as offenders while white girls have a better chance of being treated as victims and referred to child welfare and mental health systems (Chesney-Lind, 1997; Robinson, 1990).

Street women. Women who start out as juvenile runaways and status offenders may end up living on the streets where they have no legal means of survival (Chesney-Lind, 1997; Daly, 1994; Gilfus, 1987,1992; E. Miller (1986). Gilfus (1987) examined the timing of life events that preceded incarceration among 96 women in prison and identified a pattern of sexually and physically abused girls who ran away from violent homes and were unable to continue school. By the age of 16, the girls were living on the streets with no viable employment options. Pimps recruited them or violently coerced them into prostitution. Most had been raped multiple times while on the streets and nearly all had been or were still in abusive relationships with co-addicted male partners involved in crime. They had long arrest records for minor offenses and were eventually sent to state prison after numerous probation failures, prostitution offenses and drug law violations (Gilfus, 1992).

Most street women are poor women who have been displaced as a result of being abused and runaway girls or forced onto the streets by poverty, loss of housing and welfare benefits, escape from abusive intimate partners, mental illness and/or alcohol and drug addiction. A study of women in Cook County Jail in Illinois found that more than half of the women had been homeless prior to arrest (Chicago Coalition for the Homeless, 2002). Mental illness, substance abuse and homelessness are highly correlated with post-traumatic symptoms and histories of severe sexual and physical abuse; a high portion of women living on the streets and in homeless shelters are re-victimizaed while on the streets (Browne & Bassuk, 1997; Wenzel, Leake, & Gelberg, 2001). Life on the streets is dangerous and can re-traumatize women. The terrible poverty that forces girls and women onto the streets often forces them to earn money by prostitution, most often under the control of pimps where they raped and battered again.

Street women are highly visible to law enforcement and they are swept up during campaigns to crack down on crime and "clean up the streets" (Miller & Jayasundara, 2001). Street women may be automatically presumed by police to be prostitutes and addicts and are often arrested for offenses that are rarely charged against men (solicitation, loitering and disorderly conduct). When picked up on prostitution-related charges women report rape, body searches and coercion to perform sexual services by police officers, jailers and prison guards (Miller & Jayasundara, 2001).

Addictions and drug offenses. Addiction and drug offending can be an outcome of street life, having to endure prostitution and economic desperation. It can also be a coping response to battering by women across class and race (Goldberg, 1995). Battered women often experience extreme stress, symptoms of complex PTSD, anxiety, depression, sleep deprivation and physical pain (Campbell & Lewandowski, 1997; Crowell & Burgess, 1996; Hughes & Jones, 2000) and may use alcohol or drugs to self-medicate (Bennett, 1998; Browne, et al, 1999). Procuring drugs places users at risk for arrest. Some women are introduced to drugs by abusive partners and may be forced to sell or carry drugs for them, while other impoverished women may resort to selling drugs to finance a planned escape from an abuser or to find a place to sleep (Gilfus, 1992; Richie, 1996).

Very high rates of addiction are found among incarcerated women and women's rising rates of incarceration are attributed primarily to aggressive drug enforcement and heavy sentences imposed for drug convictions (ACA, 1990; Allard, 2002; Chesney-Lind, 1997; Greenfield & Snell, 1999; Richie, 1996). Since the introduction of crack cocaine, drug enforcement has targeted poor communities of color where visible street transactions are monitored and homes are raided, often in front of children, looking for "crack houses." Heavier penalties and longer sentences are imposed for inexpensive crack than for higher priced forms of the drug, thus increasing convictions and imprisonment of poor people of color.

Processes That Entrap Women in Violent Relationships and Coerce Them into Crime

Economic offenses. Many women are in prisons for economic crimes, primarily larceny for shoplifting and using stolen credit cards. Some women charged with economic offenses are runaways, street women and drug-addicted women, but others may have no prior illegal activity or drug addiction. They may be coerced into crimes by abusive partners, they may try to support themselves and their children with stolen items, they may be caught in welfare fraud, or they may steal or forge checks in order to escape from abuse (Kopels & Sheridan, 2002; Richie, 1996; Stuart, 1999).

Battering may force women into poverty and homelessness; it can cause women to lose jobs, welfare benefits, housing and educational opportunities (Browne & Bassuk, 1997; Davis, 1999; Lloyd & Taluc, 1999; Raphael, 1999). Financially abusive partners may steal women's earnings and possessions, force them into debt and harass them at work until they lose their jobs. Women who escape often have no resources of their own and cannot afford housing, food, medical care and childcare. Recent changes in welfare policies have left many abused women with even fewer choices and resources (Davis, 1999; Hagen & Owens-Manley, 2002; Raphael, 1999; Stuart, 1999). Low-income women of color experience the highest rates of domestic violence (Raj, Silverman, Wingood, & DiClemente, 1999; Rennison & Welchans, 2000; Wyatt, Axelrod, Chin, Carmona, & Loeb, 2000) and are the most affected by welfare reform policies (Coker, 2000).

Women arrested for harming others. Arrest and incarceration can result when women try to protect or defend themselves and their children from abuse, as well as when they cannot protect their children. Arrests of women for domestic violence assaults have increased since mandatory and pro-arrest laws and policies have been implemented (Dasgupta, 1999, 2001; Haviland, Frye, Rajah, Thukral, & Trimity, n.d.; S. Miller, 2001; Peng & Mitchell, 2001). The increase of women arrested under mandatory arrest laws and policies may be due to officers' reluctance to do careful investigations, perhaps in part as backlash against women (Dasgupta, 1999, 2001; S. Miller, 2001). Some abusers call the police to have their partners arrested and use arrest as an additional tool of power and control (NCDBW, 2001). Some battered women do fight back to defend themselves and are treated as the primary aggressors by the police and courts. However, we have few examples of women arrested for harming their male intimate partners who fit the profile of batterers (Dasgupta, 1999; Miller, 2001)--the majority of women who fight back do so in self-defense.

Battered women report being pressured by prosecutors and their defense attorneys to plea bargain for a "light" sentence even when they were wrongly arrested (Miller, 2001). One of the reasons women give for accepting plea bargains is to get released from jail in order to care for their children and to protect them from the batterer (NCDBW, 2001). A plea of guilty leaves a woman with a permanent criminal record. Women with criminal records may lose welfare (TANF), food stamps and Medicaid, may be subject to deportation if they are immigrants, face employment barriers and may be permanently denied the right to vote (Coker, 2000; Haviland, et al., n.d.; NCDBW, 2001). A battered woman facing criminal charges and imprisonment has even less power and fewer resources to ensure her own and her children's safety (NCDBW, 2001).

Browne (1987), Walker (1989) and Leonard (2002) studied battered women who killed abusive partners in self-defense after long struggles to protect themselves and their children from terrifying violence. Those studies show how women can be completely trapped by severe violence, yet the criminal justice system still rarely acknowledges the history of abuse in its definition of self-defense. The number of intimate partner homicides in the U. S. dropped by more than 60% from 1976 to 1998, with the largest drop for women who kill their partners (Rennison & Welchans, 2000). A study by Browne and Williams (1993) suggested that the decrease might be due to the increasing availability of

domestic violence services for women. Unfortunately, the rate of male-perpetrated intimate homicides has not decreased (Rennison & Welchans, 2000).

Battered women who defend themselves and harm abusers resemble battered women who kill batterers, but may look as if they are not "good victims;" for using too much force, or using alcohol or drugs, or having an arrest record. They are unlikely to be treated as victims when they try to use law enforcement and the courts for protection. Another controversial trend in social policy is prosecution of battered women as child abusers or for "failure to protect" their children even in situations where the batterer prevents them from protecting their children (Beeman, Hagemeister, & Edleson, 2001; Edleson, 1998; Kopels & Sheridan, 2002; Mills, 1998). There are increasing efforts in research, policy and practice to understand and address the issues of battered women whose children are also abused.

Enforcement Violence. Battered women with multiple issues, such as poverty, substance abuse, mental illness, homelessness, criminal records and prostitution histories face steep barriers to receiving services and benefits, and are not taken seriously as victims by the criminal justice system (Zweig, Schlichter, & Burt, 2002). Most women with multiple issues are not eligible for domestic violence shelters and face discrimination and further abuse wherever they turn. Enforcement abuse is victimization, entrapment, coercion and harm that results from enforcement of policies, laws and institutional practices (Bhattacharjee, 2001). Some of the consequences of arrest discussed above (loss of rights and benefits) are examples of enforcement abuse. Particularly serious enforcement violence affects groups who have few legal rights or access to legal resources for protection. These include refugees and immigrants as well as people under correctional control. Although not the focus of this paper, additional groups exposed to enforcement abuse include people institutionalized in settings such as psychiatric hospitals, nursing homes and facilities that house people with disabilities.

Battered immigrant women, who may or may not have any of the above issues, face a particular kind of enforcement violence from the Immigration and Naturalization Service (INS) (Allard, 2002; Bhattacharjee, 2001; Coker, 2000; Dasgupta, 1998; Raj & Silverman, 2002), including rapes by border patrol agents (Arguelles & Rivero, 1995). They may be isolated from extended family and unable to access information and services due to language barriers. Abusive partners may keep them from learning about laws and services in the U.S. Immigration status can be used as a weapon of abuse by threats or destruction of vital documents and threats to turn women over to INS for deportation. Immigration laws allow men to sponsor their wives and thus to control wives' immigration status and keep women dependent on them. Recent immigrants are not eligible for TANF or Medicaid for 3 years unless a woman can obtain a waiver as a battered woman. It is difficult for women to get waivers because of the legal complexity, women's lack of information about the provisions and not being believed by authorities. Many immigrant women also fear that the batterer will be deported, perhaps taking the children with him and they may risk their own arrest and deportation if they call police. Immigrant women may be detained in INS detention centers without access to attorneys or visitors and little information on them is available.

Over two million women are arrested each year and nearly a million women are currently under correctional control (Bureau of Justice Statistics, n. d.; Sourcebook, 2000). Eighty-five percent are on probation or parole and fifteen percent are incarcerated in local jails and state and federal prisons (Greenfield & Snell, 1999). The number of women in prison tripled from 1980 to 1990 (Chesney-Lind, 1997) and more than doubled again between 1990 and 2001, reaching 161,000 in 2001 (Beck, Karberg, & Harrison, 2002). The largest increases are for drug-related and property offenses (Greenfield & Snell, 1999). Although the portion of women arrested for violent offenses increased 80% between 1987 and 1997, women[1]s violent offenses still total only 3.6% of all arrests and 17% of violent offenses (Greenfield & Snell, 1999; Sourcebook, 2000). What has changed is the percentage of women arrested who are being convicted and incarcerated, whatever their offenses (Beck, et al., 2001; Chesney-Lind, 1997; Greenfield & Snell, 1999).

Incarcerated women are predominantly poor women with little education and few employment options; most were either unemployed or receiving welfare assistance prior to their arrests (Greenfield & Snell, 1999). A study of women in Cook County Jail in Illinois (Chicago Coalition for the Homeless, 2002) found that over half of the women were homeless and unemployed and one-third relied on prostitution for income. Twenty-nine percent of the women had recently lost or been denied government assistance.

Native Americans are incarcerated at a rate that is 19% higher than all other groups (Minton, 2002) and non-citizens represent 29% of all federal prisoners (Scalia & Litras, 2002). Women of color, once arrested, are disproportionately sent to prison while white women are more likely to be placed on probation (Greenfield & Snell, 1999). Racial discrimination in the criminal justice system, often practiced through the discretionary power of police officers, prosecutors, judges, juries, parole boards and corrections authorities, has a devastating effect on women of color. Women of color are more likely than white women to be arrested and charged with more serious offenses, to be prosecuted, to be convicted and to serve time in prison (Allard, 2002; Chesney-Lind, 1997; Ditton & Wilson, 1999; Farnsworth & Teske, 1995; Greenfield & Snell, 1999; S. Miller, 2001).

Drug enforcement in poor communities, harsh sentences mandated for certain offense categories, and laws requiring prisoners to serve longer portions of their sentences have increased the numbers of women warehoused in prisons. Few correctional settings offer drug or mental health treatment, job training, or rehabilitation programs to prepare inmates for release (Allard, 2002; Olson, Lurigio, & Seng, 2000). Nearly three-fourths of women in the criminal justice system were using drugs prior to their arrest, yet only 25% of state and federal prisoners and 17% of people on probation receive any kind of drug treatment (Allard, 2002). Federal welfare rules allow states to place a lifetime ban on cash and food stamp benefits for anyone convicted of a felony drug offense. Convicted drug felons are prohibited from living in public housing and cannot receive federal financial aid for post-secondary education (Allard, 2002). Such policies make it very difficult for women to legally obtain food, housing, health care, drug treatment, education and income for themselves and their children. Two-thirds of people released from prisons are re-arrested within three years, primarily for economic offenses (Langin & Levin, 2002).

Women and girls under correctional control are among our most impoverished and violated populations yet they have few advocates and virtually no resources, services, or rights that can be reasonably exercised. The interlocking forms of interpersonal and state violence and gender, race and class oppression imprison girls and women in battering relationships, lives of poverty and subsistence through illegal economic activities. Once they are placed under correctional control they have ever decreasing chances of extricating themselves.

RECOMMENDATIONS

Women and girls under correctional control or living and working on the streets are in urgent need of advocates, economic resources and services. Those services must be designed to be accessible, culturally appropriate, respectful and useful to the specific contexts of women's lives. We need programs in jails, prisons, courts and at street-level. Every prison and jail should have community-run domestic violence and sexual assault services. Neighborhoods where women and girls are prostituted should have confidential and easily accessible services on the streets providing information, counseling and advocacy. Shelters must be opened to provide safe haven for street women (regardless of their drug use or legal status) and to shelter women released from jails and prisons who are at risk for abuse, homelessness and prostitution.

A host of social policies cutting across criminal justice, immigration, drug enforcement, housing, welfare and health and mental health care must be changed. We need to document the extent of race, gender and class entrapment by abusers, laws, social policies and enforcement practices. The movement to end violence against women needs the leadership and expertise of women who experience criminalization, entrapment and enforcement abuse. The movement is beginning to recognize the unintended consequences of relying heavily on the criminal justice system to protect women and children from male violence; we must begin to look for other options in order not to add further harm to already oppressed communities. We need safe places, services and strong advocacy for women who are not always "good victims," but are real victims, women caught in the web of poverty, racism, violence, correctional control and enforcement abuse. Finally, the women's movement should join the effort to abolish prisons and decarcerate non-violent inmates.

Source: http;//www.vawnet.org

This tree at Phase 4 Bridge, Kubwa, Abuja, is the ghost of a giant tree that once overshadowed the bridge. It is now dead, and is an accident waiting to happen. Authorities concerned should cut it down.

ABOLISHMENT OF THE DEATH PENALTY

1785, Last execution in **Liechtenstein.**
1786 30th November, **Tuscany** abolished the death penalty for all crimes.
1787, Capital punishment abolished in **Austria**: restored in 1795.
1791, 30th May, Maximilien Robespierre's discours contre la peine de mort.
1792, 25th April, France, first execution with the guillotine.
1825 – 1917, the **Grand Duchy of Finland** is a de-facto abolitionist country.
1835, **Cape Verde** last execution.
1847, 1st March, **Michigan** abolished the death penalty for ordinary crimes. The most ancient abolitionist jurisdiction, with no executions since 1837.
1847, 4th October, **Tuscany** abolished again the death penalty.
1848, 15th September, Victor Hugo's discours contre la peine de mort a l'assemblée constituante.
1848, **Swiss Canton Freiburg** and **San Marino** abolished the death penalty for ordinary crimes (1468, last execution in San Marino)
1848 – 1870, Eleven German principalities were abolitionist: **Bremen, Frankfurt am Main, Hamburg, Nassau, Oldenburg, Saxe-Coburg-Gotha, Saxony-Anhalt, Schleswig-Holstein, Schwarzburg-Rudolstadt, Schwarzburg-Sondershausen, Waldeck.**
1849, 4th July, **The Roman Republic** abolished the death penalty for all crimes (Const. Art 5.)
1852 **Rhode Island** abolished death penalty for all crimes, reinstated in 1873, abolished in 1984. No executions since 1845.
1853, **Wisconsin** and **Argentina*** abolished the death penalty for ordinary crimes.
1854 **Swiss Canton Neuchatel** abolished death penalty
1859, 30th April, **Tuscany** abolished again the death penalty for ordinary crimes.
1862, **Greece** abolished the death penalty, later reintroduced.
1863, **Venezuela** abolished the death penalty for all crimes.
1863, **Belgium**, last execution for an ordinary crime.
1865, **San Marino** abolished the death penalty for all crimes.
1865, 13th March, **The Italian House** voted the abolition of the death penalty for ordinary crimes.
1866 – 1930, **Romania** abolitionist for ordinary crimes.
1867, **Portugal** abolished the death penalty for ordinary crimes.
1870, **The Netherland** abolished the death penalty for ordinary crimes.
1874 – 1879 **Switzerland** is abolitionist.
1877, **Costa Rica** abolished the death penalty for all crimes.
1877, **Italy** is a de facto abolitionist country.
1882, **Brazil*** abolished the death penalty for ordinary crimes.
1884, **Portugal** is the first country to abolish life imprisonment.
1885, Last execution in **Minnesota** (abolitionist de jure since 1911)
1887, **Maine** abolished the death penalty for ordinary crimes.
1890, 6th August, first execution with the electric chair: William Kemmler, New York.
1890 – 1926, **Italy,** with Zanardelli's Code, is abolitionist for ordinary crimes.
1897, **Ecuador** abolished the death penalty for ordinary crimes.
1903, **Panama** abolished the death penalty for all crimes.
1905, **Norway** abolished the death penalty for ordinary crimes.
1906, **Ecuador** abolished the death penalty for all crimes.
1907, **Uruguay** abolished the death penalty for all crimes.
1910, **Colombia** abolished the death penalty for all crimes.
1917 – 1920, **Revolutionary Russia** is abolitionist.
1921, **Sweden** abolished the death penalty for ordinary crimes.
1921, **Argentina*** abolished the death penalty for all crimes.
1922, **Queensland** abolished the death penalty for all crimes.
1924, **The Dominican Republic** abolished the death penalty for all crimes.
1926 – 1947, The death penalty came back in **Italy**.
1927, August 23, Massachusetts, **Sacco and Vanzetti**.
1928, **Iceland** abolished the death penalty for all crimes.
1929, **Puerto Rico** abolished the death penalty for all crimes.
1933, **Denmark** abolished the death penalty for ordinary crimes.
1941, **New Zealand** abolished the death penalty for ordinary crimes, restored in 1950.
1942, **Switzerland** abolished the death penalty for ordinary crimes.
1944 – 1945, in **Italy** the death penalty is abolished and re-introduced.
1947, **Italy** abolished the death penalty for ordinary crimes.
1947 – 1950, **USSR** is abolitionist for ordinary crimes.
1949, **The Federal Republic of Germany** abolished the death penalty for all crimes.
1949, **Finland** abolished the death penalty for ordinary crimes.
1950, **Austria** and **Israel** abolished the death penalty for ordinary crimes.
1950, 9th March. UK, execution of the innocent **Timothy Evans**.
1953, 13th June, **Julius and Ethel Rosenberg e**lectrocuted.
1954, **Greenland** abolished the death penalty for all crimes.
1954, Last execution in **Papua New Guinea**.
1955, **New South Wales** (Aus.) abolished the death penalty for ordinary crimes.
1955, Réflexions sur la peine capitale, par **Arthur Koestler** et **Albert Camus**.
1956, **Honduras** abolished the death penalty for all crimes.
1956 – 1959, **Ceylon (Sri Lanka)** is abolitionist.
1957, **Alaska** and **Hawaii** are abolitionist.
1960, 2nd May, **Caryl Chessman** executed.
1961, 28th May, **Amnesty International**.
1961, **New Zealand** abolished the death penalty for ordinary crimes.
1961, **Mexico**, last execution. Federal civil jurisdiction and 24 States on 29 are abolitionist.
1962, **Monaco** abolished the death penalty for all crimes.
1962, Last executions in Canada.
1963, **Michigan** abolished the death penalty for all crimes.
1964, Last **British** executions.
1965, **Iowa** and **West Virginia** are abolitionist.
1965, 9th of November, **Great Britain** abolished the death penalty for ordinary crimes.
1966, **Salomon Islands** abolished the death penalty for all crimes.
1968, **Austria** abolished the death penalty for all crimes.
1969, 18th December, Murder Abolition Act, **Great Britain** confirms the abolition.
1969, **Holy See** abolished the death penalty for all crimes.
1971, **Malta** abolished the death penalty for ordinary crimes.
1972, Abolition of corporal punishment in **Canada**
1972, **Finland** abolished the death penalty for all crimes
1972, 29th June, **Furman Decision.**
1973, **Sweden** abolished the death penalty for all crimes.
1973, **United Kingdom** abolished the death penalty for ordinary crimes.
1974, **Niue** abolished the death penalty for all crimes.
1975, **Sweden** Constitutionally prohibited the death penalty

1976, 2nd July, **Gregg Decision**.
1976, 14th July, In the days of Gregg, **Canada** abolished the death penalty for ordinary crimes.
1976, **Portugal** abolished the death penalty for all crimes.
1977, 17th January, First execution under new American capital laws: Gary Gilmore shot in Utah.
1977, **Amnesty International** declared herself total abolitionist.
1977. **UN Declaration against torture**.
1977 10th September, Last French execution
1977, December 1st, **Bermuda**: the last execution under British rule worldwide.
1978, **Denmark** and **Tuvalu** abolished the death penalty for all crimes. **Spain** abolished the death penalty for ordinary crimes.
1979, **Kiribati**, **Luxembourg**, **Nicaragua** and **Norway** abolished the death penalty for all crimes. **Brazil**, **Fiji** and **Peru** abolished the death penalty for ordinary crimes.
1980, **Vanuatu** abolished the death penalty for all crimes.
1981, **France** and **Cape Verde** abolished the death penalty for all crimes.
1982, 7th December, first American execution with lethal injection.
1982, The **Netherlands** abolished the death penalty for all crimes.
1982, **Protocol No. 6** to the European

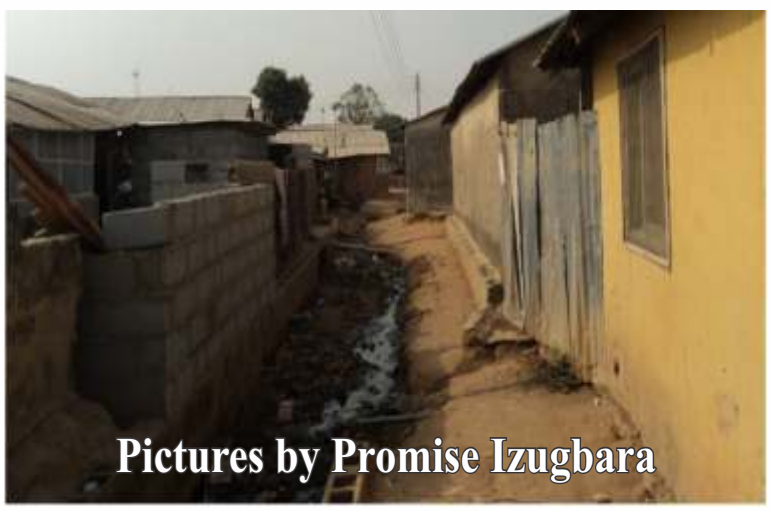
Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty.
1983, **Cyprus** and **El Salvador** abolished the death penalty for ordinary crimes.
1984, **Argentina** and **Australia** abolished the death penalty for ordinary crimes.
1984, the death penalty was outlawed in the **Finnish Constitution.**
1984, **UN Convention against Torture**.
1984, **ECOSOC guaranties**.
1986, **Marshall Islands** and **Micronesia** abolished the death penalty for all crimes.
1987, **Haiti** and the **German Democratic Republic** (**DDR**) abolished the death penalty for all crimes. **Liechtenstein** abolished the death penalty for ordinary crimes.
1987, **Philippines** abolished the death penalty for ordinary crimes, but reinstated it in 1999.
1987, 30th June, Last attempt to re-introduce the death penalty in **Canada**
1989, **Bulgaria**, **Cambodia**, **Liechtenstein, New Zealand**, **Romania** and **Slovenia** abolished the death penalty for all crimes.
1989, 15th December, **Second Optional Protocol to the ICCPR**
1990, **Andorra**, **Croatia**, **the Czech and Slovak Federal Republic**, **Hungary**, **Ireland**, **Mozambique**, **Namibia** and **Sao Tomé and Príncipe** abolished the death penalty for all crimes. **Nepal** abolished the death penalty for ordinary crimes.
1991, **Macedonia** abolished the death penalty for all crimes.
1992, **Angola**, **Switzerland** and **Paraguay (de-facto abolitionist since 1928**) abolished the death penalty for all crimes.
1993, **Guinea-Bissau**, **Hong Kong** and **Seychelles** abolished the death penalty for all crimes.
1993, The death penalty was abolished in **Gambia** but re-introduced in 1995
1994, Last attempt to re-introduce the death penalty in the **United Kingdom**.
1994, **Italy** and **Palau** abolished the death penalty for all crimes.

Half the countries in the world have abolished the death penalty in law or practice.[1]

1995, **Djibouti**, **Macau**, **Mauritius**, **Moldova** and **Spain** abolished the death penalty for all crimes. **South Africa** abolished the death penalty for ordinary crimes.
1996, **Belgium (**1863 **de-facto abolitionist**) abolished the death penalty for all crimes.
1997, **Georgia**, **Nepal**, **Poland** and **South Africa** abolished the death penalty for all crimes. **Bolivia, Bosnia-Herzegovina** and **Greece** abolished the death penalty for ordinary crimes.
1998, **Azerbaijan**, **Bulgaria**, **Canada**, **Estonia**, **Lithuania** and the **United Kingdom** abolished the death penalty for all crimes.
1999, **Bermuda**, **East Timor**, **Turkmenistan** and **Ukraine** abolished the death penalty for all crimes. **Latvia** abolished the death penalty for ordinary crimes.
2000, **Cote D'Ivoire** and **Malta** abolished the death penalty for all crimes. **Albania** abolished the death penalty for ordinary crimes.
2001, **Bosnia-Herzegovina** abolished the death penalty for all crimes. **Chile** abolished the death penalty for ordinary crimes.
2002, **Protocol No. 13** to the European Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances
2002, **Cyprus** and **Yugoslavia** (now three states **Serbia, Kosovo** and **Montenegro**) abolished the death penalty for all crimes. **Turkey** abolished the death penalty for ordinary crimes.
2003, **Armenia** abolished the death penalty for all crimes.
2004, **Bhutan**, **Greece**, **Samoa**, **Senegal** and **Turkey** abolished the death penalty for all crimes.
2005, **Mexico** abolished the death penalty for all crimes. **Liberia** abolished the death penalty for all crimes but re-introduced in 2008.
2006, **Philippines** abolished (again) the death penalty for all crimes.
2007, **Albania**, **Cook Islands, Kyrgyzstan** and **Rwanda** abolished the death penalty for all crimes. **Kazakhstan** abolished the death penalty for ordinary crimes.
2007, **Italy** cancel the word capital punishment from its Constitution.
2008, **Uzbekistan** and **Argentina** abolished the death penalty for all crimes.
2009, **Bolivia, Burundi** and **Togo** abolished the death penalty for all crimes.
2010, **Gabon** and **Australia** abolished the death penalty for all crimes.
2012, **Latvia** abolished the death penalty for all crimes.
2015, **Madagascar**, **Fiji, Mongolia** and **Suriname** abolished the death penalty for all crimes.

* Argentina (1853, 1921) and Brazil (1882) abolished the death penalty, but reintroduced it for politically motivated crimes in the first and second half of the Twentieth Century: there were not executions, but thousands of “desaparecidos”.

Life in Kado-Kuchi, Abuja.


Pictures by Promise Izugbara


Entrance to Kado-Kuchi.

BASIC PRINCIPLES ON THE USE OF FORCE AND FIREARMS BY LAW ENFORCEMENT OFFICIALS

Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990

Whereas the work of law enforcement officials 1 is a social service of great importance and there is, therefore, a need to maintain and, whenever necessary, to improve the working conditions and status of these officials,

Whereas a threat to the life and safety of law enforcement officials must be seen as a threat to the stability of society as a whole,

Whereas law enforcement officials have a vital role in the protection of the right to life, liberty and security of the person, as guaranteed in the Universal Declaration of Human Rights and reaffirmed in the International Covenant on Civil and Political Rights,

Whereas the Standard Minimum Rules for the Treatment of Prisoners provide for the circumstances


Photo by The Nation Newspaper

in which prison officials may use force in the course of their duties,

Whereas article 3 of the Code of Conduct for Law Enforcement Officials provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty,

Whereas the preparatory meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Varenna, Italy, agreed on elements to be considered in the course of further work on restraints on the use of force and firearms by law enforcement officials,

Whereas the Seventh Congress, in its resolution 14, inter alia , emphasizes that the use of force and firearms by law enforcement officials should be commensurate with due respect for human rights,

Whereas the Economic and Social Council, in its resolution 1986/10, section IX, of 21 May 1986, invited Member States to pay particular attention in the implementation of the Code to the use of force and

firearms by law enforcement officials, and the General Assembly, in its resolution 41/149 of 4 December 1986, inter alia , welcomed this recommendation made by the Council,

Whereas it is appropriate that, with due regard to their personal safety, consideration be given to the role of law enforcement officials in relation to the administration of justice, to the protection of the right to life, liberty and security of the person, to their responsibility to maintain public safety and social peace and to the importance of their qualifications, training and conduct,

The basic principles set forth below, which have been formulated to assist Member States in their task of ensuring and promoting the proper role of law enforcement officials, should be taken into account and respected by Governments within the framework of their national legislation and practice, and be brought to the attention of law enforcement officials as well as other persons, such as judges, prosecutors, lawyers, members of the executive branch and the legislature, and the public.

GENERAL PROVISIONS

1. Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials. In developing such rules and regulations, Governments and law enforcement agencies shall keep the ethical issues associated with the use of force and firearms constantly under review.

2. Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons. For the same purpose, it should also be possible for law enforcement officials to be equipped with self-defensive equipment such as shields, helmets, bullet-proof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind.

3. The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.

4. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

5. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

(a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;

(b) Minimize damage and injury, and respect and preserve human life;

(c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;

(d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

6. Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with principle 22.

7. Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.

8. Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

SPECIAL PROVISIONS

9. Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

10. In the circumstances provided for under principle 9, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.

11. Rules and regulations on the use of firearms by law enforcement officials should include guidelines that:

(a) Specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted;

(b) Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;

(c) Prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;

(d) Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;

(e) Provide for warnings to be given, if appropriate, when firearms are to be discharged;

(f) Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.

POLICING UNLAWFUL ASSEMBLIES

12. As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14.

13. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.

14. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9.

Policing persons in custody or detention

15. Law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.

16. Law enforcement officials, in their relations with persons in custody or detention, shall not use firearms, except in self-defence or in the defence of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger referred to in principle 9.

17. The preceding principles are without prejudice to the rights, duties and responsibilities of prison officials, as set out in the Standard Minimum Rules for the Treatment of Prisoners, particularly rules 33, 34 and 54.

Qualifications, training and counselling

18. Governments and law enforcement agencies shall ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions and receive continuous and thorough professional training. Their continued fitness to perform these functions should be subject to periodic review.

19. Governments and law enforcement agencies shall ensure that all law enforcement officials are provided with training and are tested in accordance with appropriate proficiency standards in the use of force. Those law enforcement officials who are required to carry firearms should be authorized to do so only upon completion of special training in their use.

20. In the training of law enforcement officials, Governments and law enforcement agencies shall give special attention to issues of police ethics and human rights, especially in the investigative process, to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd behaviour, and the methods of persuasion, negotiation and mediation, as well as to technical means, with a view to limiting the use of force and firearms. Law enforcement agencies should review their training programmes and operational procedures in the light of particular incidents.

21. Governments and law enforcement agencies shall make stress counselling available to law enforcement officials who are involved in situations where force and firearms are used.

Reporting and review procedures

22. Governments and law enforcement agencies shall establish effective reporting and review procedures for all incidents referred to in principles 6 and 11 (f). For incidents reported pursuant to these principles, Governments and law enforcement agencies shall ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control.

23. Persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process. In the event of the death of such persons, this provision shall apply to their dependants accordingly.

24. Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.

25. Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force and firearms, or who report such use by other officials.

26. Obedience to superior orders shall be no defence if law enforcement officials knew that an order to use force and firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility also rests on the superiors who gave the unlawful orders.

CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS

Adopted by General Assembly resolution 34/169 of 17 December 1979

Article 1

Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Commentary :

(a) The term "law enforcement officials", includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention.

(b) In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.

(c) Service to the community is intended to include particularly the rendition of services of assistance to those members of the community who by reason of personal, economic, social or other emergencies are in need of immediate aid.

(d) This provision is intended to cover not only all violent, predatory and harmful acts, but extends to the full range of prohibitions under penal statutes. It extends to conduct by persons not capable of incurring criminal liability.

Article 2

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Commentary :

(a) The human rights in question are identified and protected by national and international law. Among the relevant international instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid , the Convention on the Prevention and Punishment of the Crime of Genocide, the Standard Minimum Rules for the Treatment of Prisoners and the Vienna Convention on Consular Relations.

(b) National commentaries to this provision should indicate regional or national provisions identifying and protecting these rights.

Article 3

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Commentary :

(a) This provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorized to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.

(b) National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved.

(c) The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities.

Article 4

Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

Commentary :

By the nature of their duties, law enforcement officials obtain information which may relate to private lives or be potentially harmful to the interests, and especially the reputation, of others. Great care should be exercised in safeguarding and using such information, which should be disclosed only in the performance of duty or to serve the needs of justice. Any disclosure of such information for other purposes is wholly improper.

Article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Commentary :

(a) This prohibition derives from the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly, according to which:

"[Such an act is] an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights [and other international human rights instruments]."

(b) The Declaration defines torture as follows:

". . . torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners."

(c) The term "cruel, inhuman or degrading treatment or punishment" has not been defined by the General Assembly but should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental.

Article 6

Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

Commentary :

(a) "Medical attention", which refers to services rendered by any medical personnel, including certified medical practitioners and paramedics, shall be secured when needed or requested.

(b) While the medical personnel are likely to be attached to the law enforcement operation, law enforcement officials must take into account the judgement of such personnel when they recommend providing the person in custody with appropriate treatment through, or in consultation with, medical personnel from outside the law enforcement operation.

(c) It is understood that law enforcement officials shall also secure medical attention for victims of violations of law or of accidents occurring in the course of violations of law.

Article 7

Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts.

Commentary :

(a) Any act of corruption, in the same way as any other abuse of authority, is incompatible with the profession of law enforcement officials. The law must be enforced fully with respect to any law enforcement official who commits an act of corruption, as Governments cannot expect to enforce the law among their citizens if they cannot, or will not, enforce the law against their own agents and within their agencies.

(b) While the definition of corruption must be subject to national law, it should be understood to encompass the commission or omission of an act in the performance of or in connection with one's duties, in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted.

(c) The expression "act of corruption" referred to above should be understood to encompass attempted corruption.

Article 8

Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them.

Law enforcement officials who have reason to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

Commentary :

(a) This Code shall be observed whenever it has been incorporated into national legislation or practice. If legislation or practice contains stricter provisions than those of the present Code, those stricter provisions shall be observed.

(b) The article seeks to preserve the balance between the need for internal discipline of the agency on which public safety is largely dependent, on the one hand, and the need for dealing with violations of basic human rights, on the other. Law enforcement officials shall report violations within the chain of command and take other lawful action outside the chain of command only when no other remedies are available or effective. It is understood that law enforcement officials shall not suffer administrative or other penalties because they have reported that a violation of this Code has occurred or is about to occur.

(c) The term "appropriate authorities or organs vested with reviewing or remedial power" refers to any authority or organ existing under national law, whether internal to the law enforcement agency or independent thereof, with statutory, customary or other power to review grievances and complaints arising out of violations within the purview of this Code.

(d) In some countries, the mass media may be regarded as performing complaint review functions similar to those described in subparagraph (c) above. Law enforcement officials may, therefore, be justified if, as a last resort and in accordance with the laws and customs of their own countries and with the provisions of article 4 of the present Code, they bring violations to the attention of public opinion through the mass media.

(e) Law enforcement officials who comply with the provisions of this Code deserve the respect, the full support and the co-operation of the community and of the law enforcement agency in which they serve, as well as the law enforcement profession.

Cont. from Page 1

Targeted review of preliminary areas: minimum set of procedural principles and safeguards:

Scope and application of the Rules.

While the Rules focus mainly on the situation of persons deprived of liberty in prisons, pretrial detention centres and police stations, in practice, States' obligations to ensure respect for human rights extend beyond police custody and prisons. The broad concept of deprivation of liberty is reflected in several international instruments, including the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in which "deprivation of liberty" is understood to mean any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority (art. 4 (2)). The language used by the Inter-American Commission on Human Rights is also enlightening. By its resolution 1/08, the Commission understands the concept of "deprivation of liberty" to encompass the following:

Any form of detention, imprisonment, institutionalization or custody of a person in a public or private institution which that person is not permitted to leave at will … This category of persons includes … those persons who are under the custody and supervision of certain institutions, such as: psychiatric hospitals and other establishments for persons with physical, mental or sensory disabilities; institutions for children and the elderly; centers for migrants, refugees, asylum or refugee status seekers, stateless and undocumented persons; and any other similar institution the purpose of which is to deprive persons of their liberty.

For the purpose of this report, the broad term of persons deprived of liberty will be used to refer to all the above-mentioned situations. Although Rule 95 clarifies that the scope of Rule 4 (1) extends to all persons deprived of their liberty, it is nevertheless important to make it explicit that the Rules are effectively applicable to all persons under any form of detention or imprisonment, whether for criminal or civil reasons, whether the person is detained prior to trial, while on remand or after conviction, or whether the individual is subject to so-called special security measures, administrative or corrective measures, or immigration-related measures. The Special Rapporteur urges that it be made explicit that the Rules are applicable to all forms of deprivation of liberty, without exception and regardless of the legal status of the imprisoned person.

Furthermore, the Rules shall be applied (Rule 6 (1)) to all arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment, with no discrimination, on grounds of international law, for example on grounds of age, national, ethnic or social origin, cultural beliefs and practices, birth or other status, including health status, disability, gender or other identity and sexual orientation (see Human Rights Council resolution 17/19and Human Rights Committee general comment No. 18, para. 7), as well as labelling on grounds of psychological profile or criminal past.

Similarly, in line with general comment No. 2 of the Committee against Torture, the Rules apply irrespective of whether the detention facilities are run by State or private companies (paras. 15 and 17). Authorities should ensure that the Rules and the principles stipulated therein are observed in all institutions and establishments within their jurisdiction where persons are deprived of liberty. The Rules should ensure that, in cases where certain services are outsourced, the State remains responsible for the adequacy of those services. Furthermore, the provisions in the Rules governing the transfer of detainees from one authority to another should be strengthened. The duties of the State should be extended to the following circumstances, among others: the transfer of prisoners from one establishment to another; judicial proceedings; and hospitals outside the confines of an institution of detention. Even when the administration of a facility is not in charge of ordering a transfer, it is nevertheless acting in an official capacity on account of its responsibility for carrying out the State's obligation to prevent torture and ill-treatment, and bears responsibility for permitting or participating in the transfer of a person to the custody or control of an individual or institution known to have engaged in torture or ill-treatment, or for not implementing adequate safeguards, in contravention of the State's obligation to take effective measures to prevent torture or other ill-treatment (Committee against Torture general comment No. 2, para. 19). Thus, regardless of which authority is competent to authorize and/or execute transfers, the authority releasing the detainee, as guarantor of the right to life and humane treatment of the persons under its custody, must act with due diligence and objectivity in assessing potential risk factors and the feasibility of the transfer, and must inform the judge in charge, prior to carrying out the transfer, to give him or her the opportunity to overturn said transfer. The Rules should allow for available, suitable and effective judicial remedies to challenge transfers when it is believed that they infringe on the human rights of inmates. The Special Rapporteur fully endorses the proposal by the Expert Group to include a new preamble that would includea list of the fundamental principles contained in already adopted treaties and guidelines regarding treatment in detention (see Rule 3 and E/CN.15/2012/CRP.2, sect. 4). Some proposed preambles (for example, that proposed in UNODC/CCPCJ/EG.6/2012/NGO/1), however, refer to instruments that set out standards that fall short of those recognized in subsequent instruments; these earlier instruments should not, therefore, be cited in the Rules.

For instance, the standards set out in the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (1991), have, in various important respects, been superseded by the higher standards set out in the Convention on the Rights of Persons with Disabilities (see A/HRC/22/53, para. 58). It is crucial to recognize explicitly the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment in all circumstances. Such an explicit recognition should be included both in the preamble and, through a revision, in Rule 6, dealing with respect for inmates' inherent dignity and value as human beings. As a widely recognized set of rules addressing the administration of penal institutions, the Rules should explicitly condemn torture and ill-treatment, including participation, complicity, incitement and attempts, and certain conduct that amounts to ill-treatment, whether committed by public officials, by other persons acting on behalf of the State or by private persons (Convention against Torture, art. 4). The Rules should also declare unambiguously that no exceptional circumstances whatsoever may be relied upon to justify acts of torture and other ill-treatment by public officials, that offenders will not be tolerated and that offenders will be subject to prosecution.

Naming and defining this crime will promote the aim of the Convention against Torture, inter alia, by alerting everyone to the special gravity of the crime of torture (see Committee against Torture general comment No. 2, paras. 5 and 11). Furthermore, in order to ensure that the absolute prohibition of torture and other ill-treatment is enforced as an effective means of prevention, the proposed preamble and subsequent procedural rule should declare unambiguously that the State's obligation to prevent torture also applies to all persons who act, de jure or de facto, in the name of, in conjunction with or at the behest of the State party (Committee against Torture general comment No. 2, para. 7). The Committee against Torture has stated the following:

… an order of a superior or public authority can never be invoked as a justification of torture. … At the same time, those exercising superior authority … cannot avoid accountability or escape criminal responsibility for torture or other ill-treatment committed by subordinates where they knew or should have known that such impermissible conduct was occurring, or was likely to occur, and they failed to take reasonable and necessary preventive measures (general comment No. 2, para. 26).

Respect for prisoners' inherent dignity and value as human beings

The principle of humane treatment of persons deprived of liberty constitutes the starting point for any consideration of prison conditions and the design of prison regimes. It complements and overlaps the principle on the prohibition of torture and other ill-treatment by requiring States (and consequently the prison authorities) to take positive measures to ensure minimum guarantees of humane treatment for persons in their custodial care (see Human Rights Committee general comment No. 21, para. 3). Treating all persons deprived of their liberty with humanity and with respect for their dignity is a fundamental and universally applicable rule, the application of which, at a minimum, cannot be dependent on the material resources available in the State party to the International Covenant on Civil and Political Rights (para. 4). In this regard, the Inter-American Court of Human Rights has consistently affirmed that States cannot invoke economic hardship to justify imprisonment conditions that do not comply with the minimum international standards and respect the inherent dignity of the human being.

36. In the light of this interpretation, the Rules should incorporate a provision urging authorities to adopt specific measures aimed at resolving the structural shortcomings of places of deprivation of liberty and earmark the resources necessary to cover basic needs and work and educational programmes. Furthermore, the Rules should set out concrete

measures to be taken to ensure minimum guarantees of humane treatment for persons in custodial care, including securing a prompt and effective judicial control of detention; providing adequate, accessible and appropriate health care; ensuring the availability of appropriate judicial resources and effective complaint systems; and allowing contact with the outside world and access to other activities, including for those awaiting trial. As a rule of general application, the Rules should refrain from transferring inmates to a distant facility (see the Body of Principles, principle 20) or to a facility with much worse conditions as a form of punishment and from placing heavy restrictions on inmates' contact with the outside world, except as incidental to justifiable segregation or the maintenance of discipline (see Rules 57 and 60).

Although the Rules highlight the importance for prisoners under sentence of maintaining contact with the outside world (see part II, sect. A), this principle should be of general application for all persons deprived of liberty, including death row inmates, to mitigate the level of suffering that is inherent to the condition of persons sentenced to death3and to ensure that the penitentiary system comprises treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation (International Covenant on Civil and Political Rights, art. 10 (3)). Furthermore, the Rules should guarantee that segregation and isolation are not used as a subtle form of punishment and that persons who are segregated or isolated are held in conditions applicable to the rest of the prison or penitentiary population and are subject to the full range of protections. The rationale behind this is that in some countries different forms of prison regimes and forms of segregation are used as additional measures of punishment, for example by excluding those imprisoned for life from work, educational or other activities. In some countries, prisoners serving a life sentence are confined, in virtual isolation, for up to 22 hours a day in small, cramped, unventilated cells, often in extreme temperatures, without any type of prison activities. 38. Given the excessive use of pretrial detention for long periods of time, it is absolutely necessary to ensure that all persons deprived of liberty have access to activities and can benefit from other privileges to which the general prison population is entitled. The Special Rapporteur acknowledges that it may be difficult to implement this principle, given the fairly rapid turnover of persons awaiting trial and the fact that police stations and other detention facilities may not be adapted for this purpose. As the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has noted, however, prisoners cannot simply be left to languish for weeks, possibly months, locked up in their cells (see CPT/Inf (92) 3, para. 47). It is important to consider that the deprivation of the right to individual self determination is not incidental to criminal punishment or any other form of custodial care. The current phrasing of Rule 57 can be misunderstood as meaning that deprivation of liberty results in the withdrawal of individual self-determination.

It may be pertinent to redraft Rule 58 in order to clarify that only reasonable boundaries inherent to the regime in the places of detention apply. Likewise, Rule 69 could be amended to omit the reference to the conduct of a study of the personality of prisoners, as potentially in conflict with the right to personal self determination. As a principle of general application, the Rules should explicitly consider all inmates as subjects of rights and duties and not objects of treatment or correction.

Given that mental ill-treatment may be inflicted under the name of remedial, educational, moral, spiritual and other forces and forms of assistance, the review process offers an opportunity to revisit Rule 59 in order to limit the applicable methods to those respectful of the prisoners' inherent dignity and value as human beings. In this respect, there is a need to revisit the concepts of “rehabilitation” and “re-education”, as well as of “corrective” and “correctional”, among others, in order to protect persons deprived of liberty from arbitrary intervention or treatment that may amount to torture or other ill-treatment.. The Special Rapporteur recalls the importance of introducing a rule allowing all who are deprived of their liberty to challenge expeditiously the lawfulness of the detention, e.g. through habeas corpus or amparo, as a safeguard for ensuring protection against torture or other ill-treatment. In all circumstances, the person deprived of liberty should have the right to inform his or her family of the arrest (Rules 44 (3) and 92) and place of detention within 18 hours (E/CN.4/2003/68, paras. 26 (g) and (i)). These rules should apply also to decisions to restrict the personal freedom of an inmate further, for instance by placing him or her in isolation or solitary confinement. In no case may a detainee's contact with the outside world be dependent on his or her cooperativeness, be used as a disciplinary sanction or form part of the sentence. In accordance with principle 19 of the Body of Principles, access to the outside world can only be denied subject to reasonable conditions and restrictions as specified by law (see E/CN.4/2004/56, para. 43). Furthermore, given that safeguards are particularly undermined when the detained persons are held in incommunicado or secret detention, the Rules should place an obligation on prison authorities to ensure that persons deprived of liberty are held in officially recognized and accessible places of detention. Police station chiefs and investigating officers should be held criminally accountable for any unacknowledged custody in cases where their responsibility, including command responsibility, has been established. The Special Rapporteur recalls that whether detention is secret or not is determined by its incommunicado character and by the fact that State authorities do not disclose the place of detention or information about the fate of the detainee (see A/HRC/13/42, paras. 8-10). 43. The maintenance of an official registry has been and remains one of the fundamental safeguards against torture or other ill-treatment. Although Rule 7 provides for an obligation to ensure proper registration, it lacks a provision obliging strict adherence to registration from the very moment of apprehension and transfer to police custody; the duty to have a comprehensive and accessible record of everyone deprived of liberty (International Convention for the Protection of All Persons from Enforced Disappearance, art. 17 (3)); information regarding the time and place of arrest as well as the identity of the arresting officials; the state of health upon arrival at the detention centre; and records of when the next of kin and a lawyer were contacted and visited the detainee. It also lacks a provision requiring accurate information about the custody and whereabouts of persons, including transfers, available promptly to the detainee, his or her relatives and his or her counsel (Body of Principles, principle 12), as well as registration of information on the circumstances of death of prisoners and the location of their remains (International Convention on Enforced Disappearance, art. 17 (3) (g)). Furthermore, Rule 7 (2), which obliges prison authorities to not receive a person in an institution without a valid commitment order, should be revised. The detainee should be admitted into a lawful place of detention and the person in charge of that institution is responsible for admitting the person concerned and immediately notifying a judge. It is equally important that interrogation rules, instructions, methods and practices be kept under systematic review with a view to preventing cases of torture and other ill-treatment (Convention against Torture, art. 11). The Special Rapporteur recalls that counsel must be present during all interview interrogations, in their entirety. The duration of interrogations and the intervals between interrogations must be recorded (preferably with a video recorder but at least with an audio recorder) and the identity of the officials conducting the interrogation should be registered (Body of Principles, principle 23). Individuals arrested legally should not be held in facilities under the control of their interrogators or investigators for more time than is required by law to obtain a judicial warrant of pretrial detention, which, in any case, should not exceed a period of 48 hours. They should be transferred to a pretrial facility under a different authority at once, after which no further unsupervised contact with the interrogatorsor investigators should be permitted (see E/CN.4/2003/68, para. 26 (g)).

CONDITIONS OF DETENTION

The Special Rapporteur has noted that inappropriate conditions of detention, including conditions characterized by structural deprivation and the non-fulfilment of rights necessary for a humane and dignified existence, amount to a systematic practice of inhuman or degrading treatment or punishment (E/CN.4/2004/56, para. 41, and A/HRC/13/39/Add.5, para. 230). A considerable amount of jurisprudence at the international and regional levels has also consistently found that conditions of detention can amount to inhuman and degrading treatment.

Overcrowding, lack of ventilation, poor sanitary conditions, prolonged isolation, the holding of suspects incommunicado, frequent transfers from one prison to another, the non-separation of different categories of prisoners, the holding of persons with disabilities in environments that include areas inaccessible to them and the holding of persons without means of communication could constitute or lead to cruel, inhuman or degrading treatment or torture. The Rules could benefit from adhering to the requirement established by the Committee on Economic, Social and Cultural Rights regarding services in places of detention (see general comment No. 19 of the Committee, especially paras. 1, 9, 31 and 46). While recognizing that penitentiary systems are almost universally severely underfunded and suffer from decades of accumulated problems, the Special Rapporteur recalls that a lack of financial resources cannot be an excuse for not refurbishing detention facilities, purchasing basic supplies and providing food and medical treatment, among other things. The Rules should stress that treating all persons deprived of liberty with respect for their dignity is a fundamental and universal rule, the application of which cannot be dependent on resources.

PRISONERS' SAFETY AND PRISON VIOLENCE

47. Incidents of abuse among prisoners, from subtle forms of harassment to intimidation and serious physical and sexual attacks, are a regular occurrence in all prisons. The Special Rapporteur observes that although Rule 28 (1) prohibits employing prisoners in a disciplinary capacity, in some States guards delegate the authority for maintaining discipline and protecting detainees from exploitation and violence to privileged detainees who, in turn, often use this power to their own benefit. In this context, special consideration should be given to the aggravated risk of violence that women and those from vulnerable groups, including persons with disabilities, people living with HIV/AIDS, drug-dependant individuals, lesbian, gay, bisexual, transgender and intersex persons and sex workers might suffer. The Special Rapporteur recalls that inter-prisoner violence may amount to torture or other ill-treatment if the State fails to act with due diligence to prevent it (A/HRC/13/39/Add.3, para. 28). As stated by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the State assumes a heightened duty of protection by severely limiting an inmates' freedom of movement and capacity for self-defence (A/61/311, para. 51). Despite the unambiguous wording of the Convention against Torture, there is a lack of awareness of the obligation of prison administration to intervene in inter-prisoner violence. The Special Rapporteur on torture notes that acquiescence in inter-prisoner violence is not simply a breach of professional responsibilities but that it amounts to consent or acquiescence to torture or other ill-treatment. The fundamental role of authorities to exercise effective control over places of deprivation of liberty and ensure the personal safety of prisoners from physical, sexual or emotional abuse should be further strengthened as one of the most important obligations (see the United Nations Standard Minimum Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, para. 9, and the European Prison Rules, rule 52.2). In this respect, preventive measures include increasing the number of personnel sufficiently trained in using non-violent means of resolving conflicts (see CAT/C/BGR/CO/4-5, para. 23 (c), and A/HRC/7/3/Add.3, para. 90 (t)); promptly and efficiently investigating all reports of inter-prisoner violence and prosecuting and punishing those responsible; and offering protective custody to vulnerable individuals without marginalizing them from the prison population more than is required for their protection. Given the intrusive nature of internal surveillance devices as a control and early warning mechanism, such devices should be administered by specialized security personnel trained to strike a balance between exercising security functions and treating persons with respect for their dignity, including by demonstrating respect for and being sensitive to cultural and religious diversity.

MEDICAL AND HEALTH SERVICES

The State must provide adequate medical care, which is a minimum and indispensable material requirement for ensuring the humane treatment of persons in its custody. The carrying out of a prompt, independent and consensual medical examination upon a person's admission to a place of detention and after every transfer between facilities, and thereafter on a routine basis, constitutes one of the basic safeguards against ill-treatment (see Human Rights Council resolution 10/24, paras. 4 and 9, and A/52/40 (vol. I), para. 109). Among the main challenges in the provision of medical care are the lack of appropriate and sufficient medical personnel; inadequate medicine supplies and equipment; and a lack of capacity and delays in authorizing transfers to hospitals. The Special Rapporteur notes that loss of life or a deterioration in an inmate's well-being occurs because of a lack of or unreasonable delays in the provision of urgent medical care, and that these omissions on the part of the authorities can amount to ill-treatment and even torture. The revision of the Rules offers a good opportunity to insist on the obligation of authorities to ensure free, fair and transparent access to a facility's medical services by providing a sufficient number of qualified, independent physicians in all facilities. The Rules should insist on the obligation to guarantee the availability of prompt, impartial, adequate and consensual medical and psychological examination upon the admission of each detainee. Medical examinations should also be provided when an inmate is taken out of the place of detention for any investigative activity, upon transfer or release and in response to allegations or suspicion of torture or other ill-treatment. Likewise, medical examinations must take place if a victim makes a complaint or upon his or her lawyer's motion, subject to judicial review in the event of delay or refusal. It is essential that medical examinations be conducted in a setting that is free of any surveillance and in full confidentiality, except for when the presence of prison staff is requested by the medical personnel. Health personnel must be free from any interference, pressure, intimidation or orders from detention authorities. Medical examinations are a crucial tool in corroborating or refuting allegations of physical and psychological mistreatment. They are also integral to prevention efforts. While forensic science has made progress, the impact of medical examinations is undermined by a lack of rigorous implementation, inadequate funding, insufficient training and institutional dependencies. In many cases, health care is provided by physicians who have an almost exclusively therapeutic role or by nurses or paramedics with only basic medical training, as their focus is on curing sick detainees and examining new arrivals for contagious diseases or obvious wounds. They often lack the required expertise to properly document ill-treatment. Furthermore, reporting signs of torture raises challenges regarding perceived loyalty conflicts (to the prison administration and to the prisoner) and the responsibility to assure the safety of prisoners. In turn, persons deprived of liberty are invariably caught between a legal requirement to provide evidence to support allegations of torture or other ill-treatment and the lack of practical possibilities to produce such evidence. Records of medical examinations upon arrest or transfer often do not exist and recourse to forensic expertise is at the discretion of the supervising authority, who has ample opportunity to delay authorization until the signs of torture have disappeared. The revision of the Rules offers an excellent opportunity to address these deficiencies. The Rules must include a provision obliging authorities to ensure that medical examinations are not conducted in a superficial manner and to act diligently so as to ascertain the condition of the person examined, allowing that person to freely communicate with the physician (see CAT/OP/MEX/1, paras. 132, 133, 135, 172 and 173). Medical examinations should be thorough enough to detect any psychological consequences of torture or propensity to commit suicide. Furthermore, Rule 24 should insist on the obligation of medical personnel to detect, treat, properly document and refer to the authority responsible for investigating allegations of torture or other ill-treatment any signs of torture or other ill-treatment or any case where there are allegations or reasonable grounds to believe that torture or other ill-treatment may have occurred prior to admission or while in detention (see the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, annex, paras. 6 (a) and (c)). Furthermore, the Rules should be reformulated to integrate principles of clinical independence and medical ethics, as well as principles of equality and non-discrimination: the requirement to respect the autonomy of patients, the need for the informed consent of the person concerned (Convention on the Rights of Persons with Disabilities, art.25 (d)) and confidentiality, including with regard to HIV testing, the reproductive health of inmates and their medical files (see the United Nations Rules for the Treatment of Women Prisoners, rule 8)

In addition, the Rules should include an express recognition that persons deprived of liberty must always have access to adequate health care, including adequate medical, psychiatric and dental care and medication. Persons deprived of liberty should have access to a level of health care that is equivalent to that available to the general population. Currently, Rule 22 (1) already stipulates that prison health services should be organized in close cooperation with the general health administration of the community or nation, and the World Health Organization (WHO) has stated that prison health policies must be integrated into national health policies.

To achieve this, prison health-care services should be integrated under the ministry of health. The Rules should adopt special measures to address the particular health needs of persons deprived of liberty belonging to vulnerable or high-risk groups (see para. 47 above). The Rules should allow the prison administration to facilitate the compassionate release of terminally ill persons on the ground of their health status. 56. Finally, the Special Rapporteur emphasizes that health professionals must not, under any circumstance, consent or acquiesce to torture or other ill-treatment, let alone take active part in any such ill-treatment (Principles of Medical Ethics, principles 2 and 3, and the Ethical Principles for Medical Research Involving Human Subjects). Such prohibition extends to such practices as examining detainees to determine their “fitness for interrogation”, as well as to providing medical treatment to ill-treated detainees so as to enable them to withstand further abuse (E/CN.4/2003/68, para. 26 (n)). It is important that the Rules exclude the involvement and role of health-care personnel in any disciplinary or security-related measures (Rule 32 (1)). Medical personnel shall, nonetheless, closely monitor the mental and physical health of inmates undergoing punishment and visit them as deemed medically necessary or upon the request of the person deprived of liberty.

To be continued.....

Source: http://antitorture.org/smr/

P H O T O S P E A K

Cure @ a meeting with the C.J, Fct.

The C.J Fct Poses for a pic. with cure team

Cure @ a meeting with the Legal Aid Council

“The In-charge of the Medium Security Prison, Keffi and CURE-Nigeria Team”

“The In-charge of Suleja Prison, and CURE-Nigeria Team”

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