

## 2007 INTERVIEW WITH NELSON MANDELA ABOUT NIGERIA AND HER LEADERS.



MANDELA to NIGERIA...

“YOU know I am not very happy with Nigeria. I have made that very clear on many occasions. Yes, Nigeria stood by us more than any nation, but you let yourselves down, and Africa and the black race very badly. Your leaders have no respect for their people. They believe that their personal interests are the interests of the people. They take people's resources and turn it into personal wealth. There is a level of

poverty in Nigeria that should be unacceptable. I cannot understand why Nigerians are not angrier than they are.

“What do young Nigerians think about your leaders and their country and Africa? Do you teach them history? Do you have lessons on how your past leaders stood by us and gave us large amounts of money? You know I hear from Angolans and Mozambicans and Zimbabweans how your people opened their hearts and their homes to them. I was in prison then, but we

Contd. on page 3

## PICTURES FROM THE TRAINING OF LAW ENFORCEMENT OFFICERS ON THE ANTI-TORTURE ACT, 2017 IN THE FCT AND BENUE IN MAY, BY CURE-NIGERIA, BONUN SEEDS FOUNDATION AND THE NATIONAL HUMAN RIGHTS COMMISSION.



## STOP PAYING LIP SERVICE TO PRISON CONGESTION - CURE-NIGERIA TELLS FED. GOVT.

As the world celebrates Mandela Day, a leading justice reform and human rights organization, Citizens United for the Rehabilitation of Errants,

CURE-Nigeria has accused the Federal Government of paying lip service to the nagging issue of prison congestion in Nigeria.

The organisation's Executive Director, Mr. Sylvester Uhaa, stated this yesterday in a statement

made available to Vanguard in Makurdi.

Youths in Nigerian prisons...more than 70 per cent are awaiting trial Uhaa said, “It is extremely sad that prison congestion, which is caused by the excessive reliance on incarceration, abuse of power, corruption, and blatant disrespect for the rule of law and human rights of suspects, has never received the desired attention in the history of Nigeria.

“This is so because most of the prisoners are poor and marginalized people, and Nigeria does not care for its poor population. If rich and powerful people were in prison in Nigeria, the case would be different.

“We thought that Mr. President's public acknowledgment that prison congestion is a national scandal and the subsequent statement by the Vice President that Nigerian prisons turn inmates into

## CURE-NIGERIA ASKS MINISTRY OF HEALTH TO INCLUDE PRISONS IN NATIONAL SURVEY ON HIV/AIDS, HEPATITIS



and treatment drugs and the care be provided to manage the disease. It is also very likely that some of the over 900 inmates who allegedly died in prisons across the country, 32 from a prison in Lagos in 2014, could have died from HIV/AIDS, Hepatitis B and C or other related diseases or from complications arising from HIV/AIDS and Hepatitis.

This, Minister, we cannot continue to have the over 70,000 people in our prisons and the large number of people in police cells and other detention facilities out of our developmental, health, educational, social and economic programs, and expect to get things right.

So we write to request the Ministry and NACA to include the prisons and other detention centres across the country in the survey. Doing so will not only help your efforts to stem the spread of these diseases both in the prisons and in the general population, but also give people in prison access to drugs and care and reduce deaths in prisons and other detention facilities across Nigeria.

We hope that our letter will be taken seriously, and people in detention facilities across Nigeria will be covered in the survey.

Thank you, while wishing you and your ministry all the best in this important and urgent task.

Sincerely,  
Sylvester Uhaa  
Executive Director

Copied to:  
H.C. NACA  
Human Rights Unit, USAID Nigeria

DUE PROCESS AND COMPLAINTS IN PRISON  
Pg. 3

CURE-NIGERIA PETITIONS FCT POLICE...  
Pg. 5

PHYSICAL CONDITIONS-BASIC NECESSITIES OF INMATES  
Pg. 8

NHRC/NGO CALL ON FG TO IMPLEMENT ANTI-TORTURE LAW  
Pg. 10

CURE-NIGERIA PARTNERS L.E.A. PRIMARY SCHOOL, DUTSE ALHAJI & SCIENCE PRIMARY SCHOOL BWARI.  
Pg. 11

animals, would lead to concrete and tangible actions to solve the problem, but all we saw was the release of handful of inmates across the country and everything ended.

“This is obviously not enough to address the huge awaiting trial population of prisoners, who are subjected to inhuman and degrading treatment and have poor access to lawyers, good nutrition, portable water, medical and healthcare, education and other rehabilitation programs, and lack basic needs they are entitled to under international law. “Above all, 70 percent of the prison population is awaiting trial for long periods.

Although prolonged pretrial detention is unarguably, one of the greatest forms of injustice and human rights violations in Nigeria, it is often ignored because most of the victims of pretrial detention are poor and marginalized people. “As we

mark Mandela Day, we call on the Federal and state governments to release those who have spent years awaiting trial, especially those accused of non-violent offences, grant amnesty to death row inmates, particularly those who are weak, terminally-ill and are too old to pose danger to their communities, commute all death sentences to life imprisonment with a possibility of parole and put in place mechanisms to prevent prolonged pre-trial detention.

“In addition, we ask the Federal and state governments to ensure that juveniles in conflict with the law are not sent to adult prisons and not tried as adults. “Furthermore, we recommend the use of alternatives to incarceration for all non-violent female offenders, particularly nursing mothers and pregnant women, as well as the transfer to mental hospitals, the huge number of all mentally-ill persons in prisons and other detention facilities

across the country for medical attention, as these people are not supposed to be in prison.

“We ask the Federal Government to place emphasis on crime prevention, through aggressive investment in education, job creation, peace-building, rebuilding our infrastructure and social protection programs to reduce poverty.

“Rather than focusing on expanding our law enforcement and procuring guns and ammunition, as experience has shown that simply expanding law enforcement and procuring more guns without addressing the root causes of crime cannot guarantee security of lives and properties.”

Source: *vanguard newspaper* 18<sup>th</sup> July, 2018

## DUE PROCESS AND COMPLAINTS IN PRISONS

Contd. from last edition

Who administers discipline in prison?

49. Only prison staff can exercise disciplinary powers over prisoners.

Rule 28 (1) of the SMR clearly prohibits conferring disciplinary powers on certain categories and classes of prisoners. This Rule, obliges prison administration to discourage the widespread practice in many countries of having structured cell leadership organized under prisoners variously identified as 'president', 'provost', 'general', 'marshall' etc. and, by one means or another, having the possibility of exercising disciplinary powers over fellow prisoners.

Punishment

50. Punishment should be the consequence and culmination of the disciplinary process in prison imposed after a complaint or allegation against a prisoner is established. In practice, many prison systems maintain order not through such formal disciplinary sanctions but through the fear prisoners have of the unregulated measures which may be used by the prison staff against prisoners that they may regard as recalcitrant. The disciplinary rules established under the SMR and other relevant international standards do not permit this practice. The general framework for the administration of punishment in prisons is contained in Rules 31 and 32 of the SMR which provide that:

Rule 31

Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading treatment or punishments shall be completely prohibited as punishment for disciplinary offences.

Rule 32 (1)

Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.

Rule 32 (2)

The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary to or depart from the principle stated in Rule 31.

Rule 32 (3).

The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

51. According to contemporary standards of humaneness, Rule 32 contradicts Rule 31 and can no longer be regarded as consistent with the developing body of international standards

regulating the treatment of prisoners. Reduction of diet is an unjustifiable punitive measure that adversely affects the health of prisoners. Rule 32 also fails to define what 'close confinement' means and offers no guidance as to how long it can be inflicted on a prisoner as punishment. But it is clear that 'close confinement' does adversely affect the health of prisoners in a way that the applicable general standards of human rights do not permit.

52. Also noteworthy is the fact that some of the punishment measures mentioned in Rule 32 are sometimes inflicted on prisoners as "punishment" as a means of preventing prison disorders, i.e. before any actual breach of discipline has occurred. In addition to the point about the incompatibility of Rule 32 with evolving human norms of decency, it needs also to be emphasized that the SMR require that any form of punishment should be preceded by proper disciplinary process.

53. The Rules of the SMR regulating complaints discussed earlier in this section apply with equal force to punishment. Prisoners have a right to complain about forms and prescriptions of punishment that they are dissatisfied with. Prison authorities should ensure that there are appropriate safeguards against the abuse of the power of punishment.

These safeguards should include the provision of regular, frequent and independent review of punishment prescriptions.

Applicable human rights standards

54. Articles 5 and 7 respectively of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights prohibit torture and other forms of cruel, inhuman and degrading treatment or punishment and reinforce the rules of the SMR concerning punishment in prisons. Concerning prisons particularly, Article 10 of the International Covenant on Civil and Political Rights requires, among other things, that:

Article 10 (1)

All persons deprived of their liberty shall be treated with humanity and with respect to the inherent dignity of the person.

Article 10 (2) (a)

Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons; Article 10 (2) (b)

Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

Article 10 (3)

The penitentiary system shall comprise treatment of prisoners, the essential aim of

which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

55. In its General Comment 21 (44) of 6 April, 1992, the Human Rights Committee of the United Nations declared that this requires States to treat prisoners and detainees with respect for their dignity. The Committee explained that this is a "fundamental and universally applicable rule" whose application as a minimum, cannot be dependent on the material resources available to States.

Torture, cruel, inhuman and degrading treatment or punishment

56. Torture and cruel, inhuman and degrading treatment or punishment are also prohibited by Article 5 of the African Charter on Human and Peoples Rights, Article 5 of the American Convention on Human Rights and Article 3 of the European Convention on Human Rights.

57. Article 5 of the Inter-American Convention to Prevent and

Punish Torture further requires that:

Neither the dangerous character of the detainee or prisoner, nor the lack of security of the prison establishment or penitentiary shall justify torture.

58. The prohibition against torture or cruel, inhuman and degrading treatment or punishment is contained either directly or by implication in the national constitutions of all countries of the world. To reinforce the global acceptance of this principle, the United Nations' Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment obliges States and governments to investigate and punish such acts and to compensate victims of torture and cruel, inhuman and degrading treatment and punishment.

59. The most important principle which governs punishment (for disciplinary purposes) in prisons is that prisoners shall not be tortured or be subjected to any other form of cruel, inhuman or degrading treatment or punishment. The Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (1984), in Article 1.1, describes torture as follows:

For the purpose of this convention, the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or the third person has committed or is suspected of having committed, or intimidating or coercing him or a

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# 2007 INTERVIEW WITH NELSON MANDELA ABOUT NIGERIA AND HER LEADERS.

Contd. from page 1

know how your leaders punished western companies who supported Apartheid.

“What about the corruption and the crimes? Your elections are like wars. Now we hear that you cannot be president in Nigeria unless you are Muslim or Christian. Some people tell me your country may break up. Please don't let it happen. “Let me tell you what I think you need to do. You should encourage leaders to emerge who will not confuse public office with sources of

making personal wealth. Corrupt people do not make good leaders. Then you have to spend a lot of your resources for education.

“Educate children of the poor, so that they can get out of poverty. Poverty does not breed confidence. Only confident people can bring changes. Poor, uneducated people can also bring change, but it will be hijacked by the educated and the wealthy...give young Nigerians good

education. Teach them the value of hard work and sacrifice, and discourage them from crimes which are destroying your image as a good people.” (Excerpt taken from a 2007 interview with Mandela conducted by Dr Hakeem Baba-Ahmed).

Source: <https://saintmediapress.blogspot.com.ng/2016/01/2007-interview-with-nelsonmandela>

## DUE PROCESS AND COMPLAINTS IN PRISONS

Contd. from page 2

third person, or for any reason based on discrimination of any kind when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

When is treatment or punishment torturous, cruel, inhuman or degrading?

60. Through several cases concerning torture and cruel, inhuman and degrading treatment or punishment in prisons which have been dealt with both nationally and internationally, a body of general principles of practice has developed. According to these principles, punishment is very likely to be cruel, inhuman or degrading treatment or punishment (and therefore unacceptable) if it is:

- (a) disproportionate to the act committed or to the objective of ensuring discipline and ordered community life; or
- (b) unreasonable; or
- (c) unnecessary; or
- (d) arbitrary; and
- (e) produces undue pain and/or suffering.

61. In order to determine whether the punishment violates any of these principles, the following factors need to be taken in to consideration, namely:

- (i) the nature and duration of the punishment;
- (ii) the frequency of repetition and possible accumulated consequences having regard to the gender, age and other relevant physical characteristics of the prisoner;
- (iii) the state of physical and/or mental health of the prisoner;
- (iv) any opportunity for qualified and competent medical verification of consequences of the punishment on the physical and mental health of the prisoner; and,
- (v) compliance with the applicable laws.

62. It is not open to prison officials to justify cruel treatment of prisoners by recourse to law or to the defence of superior orders. On this, Article 5 of the United Nations Code of Conduct for Law Enforcement Officials provides that:

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 threat of war, a threat to national security, internal political instability or any other public emergency as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

Proportionality of punishment

63. The applicable human rights standards governing punishment in prison emphasis a principle of proportionality so that punishment

must never in any event be disproportionate to the breach committed. In this connection, Article 3 of the United Nations Code of Conduct for Law Enforcement Officials prohibits the use of force by law enforcement officials except “when strictly necessary and to the extent required for the performance of their duty.” In addition, Principle 16 of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials admonishes that:

Law enforcement officials, in their relations with persons in custody or detention, shall not use firearms, except in self-defense 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.

(The danger referred to in Principle 9 is the danger of 'a particularly serious crime involving grave threat to life.')

Forms of punishment in prison

64. Rule 29 (b) of the SMR together with Principle 30 (1) of the UN Body of Principles for the Protection of All Person Under Any Form of Detention or Imprisonment require that their form and duration shall be defined in written law or regulations. In practice, the forms of punishment which may be imposed for breach of prison discipline are many and varied. Some of these forms of punishment will now be discussed.

Solitary Confinement

65. Of all the forms of punishment, solitary confinement, perhaps more than any other, is the best known. Rule 32 (1) of the SMR prohibits “punishment by close confinement or reduction of diet” unless the “medical officer has examined the prisoner and certified in writing that he is fit to sustain it.”

66. Although the SMR do not expressly prohibit solitary confinement, they clearly make it a form of punishment that should be used in frequently and exceptionally. In its General Comment No. 20 (44) of 3 April, 1992, the Human Rights Committee of the United Nations noted that “prolonged solitary confinement” may violate the prohibition against torture. Principle 7 of the United Nations Basic Principles for the Treatment of Prisoners requires that: Efforts addressed to the abolition of solitary confinement as a punishment or to the restriction of its use should be undertaken and encouraged.

67. From the numerous views and decisions of the Human Rights Committee of the United Nations as well as other national and international bodies on the issue of solitary confinement, rules of good practice on solitary confinement can be summarized as follows:

Prolonged solitary confinement

68. Prolonged solitary confinement is not lawful: In its General Comment no. 20/44 on Article 7 of the International Covenant on Civil and Political Rights, the Human Rights Committee of the United Nations specifically observed that “prolonged solitary confinement of the detained or imprisoned may amount to prohibited acts of torture”. For example, in the case of Larrosa v. Uruguay, (Communication no. 88/1981), the Human Rights Committee decided that solitary confinement for over one month was prolonged and violated the rights of the prisoner to be treated with dignity.

Indeterminate solitary confinement

69. Solitary confinement should not, under any circumstances be imposed on any prisoner for an indeterminate period. In the case of Dave Marais v. Madagascar, (communication no. 49/1979), Dave Marais, was a South African national serving a term of imprisonment in Madagascar.

After he attempted a jail break, he was held incommunicado for a period of over three years in a cell measuring one metre by two metres.

During this period, he was released briefly on two occasions to attend trial proceedings in the capital of the country, Antananarivo. The Human Rights Committee of the United Nations held this to be inhuman treatment.

Repeated solitary confinement

70. Repeated solitary confinement is also not lawful. Very often, solitary confinement is perceived and used by prison officials as a handy and effective way of dealing with prisoners who have a reputation, irrespective of what the prisoner has been accused of in any particular case. The tendency seems to be that once a prisoner has been in solitary confinement before, it becomes much easier to send or keep him or her back there without substantial justification or excuse.

Because of the potentially harmful effects that solitary confinement may have on the physical and mental health of the prisoner, the prison administration has a legal duty to discourage this tendency.

Solitary confinement combined with other punishment

71. Solitary confinement should not be combined with any other forms of punishment. This is in keeping with the principle in Rule 30 (1) that no prisoner should be punished twice for one offence. Thus, in a case that happened in Zimbabwe, while sentencing a prisoner to a term of three years for housebreaking, a Magistrate brought into effect a relevant suspended sentence of three years with hard labour and ordered that the first and last fortnights of his sentence should be spent in solitary confinement and on spare diet. The Supreme Court of Zimbabwe held that the punishments of solitary confinement with

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spare diet were inhuman and degrading and therefore unconstitutional.

The court explained that “these forms of punishment are reminiscent of the Dark Ages.” [S v. Masitere, 1991 (1) SA804].

Physician not to be involved in punishment

72. In any case, it is essential that a medical doctor or other qualified medical personnel should be available to attend to the medical needs of prisoners under any form of punishment but not for the purpose of supporting the prisoner's capacity to sustain the punishment. The participation of medical personnel in the administration of punishment in prisons raises considerable ethical problems for medical professionals and is discussed elsewhere in greater detail in Section IV of this Handbook. This is particularly so in relation to the provisions of Rule 32 (1) which requires a medical officer to examine and certify that a prisoner is fit to receive punishments like solitary confinement before they are administered. Principle 3 of the Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the United Nations General Assembly in December 1982 asserts that: It is a contravention of medical ethics for health personnel, particularly physicians, to be involved in any professional relationship with prisoners or detainees the purpose of which is not solely to evaluate, protect or improve their physical and mental health. (Emphasis added.)

73. A medical officer who certifies that a prisoner is fit to stand solitary confinement violates this principle. But there is nothing wrong with medical officers attending to the medical needs of prisoners under solitary confinement or similar punishment. Medical officers also have a duty to advise prison officials to discontinue solitary confinement or other punishment which may endanger the health of prisoners and prison officials are encouraged to respect such professional opinions.

For instance, in one case decided by the European Commission for Human Rights, Krocher and Moller, suspected by Swiss authorities of being terrorists, were kept in solitary confinement under severe sensory deprivation. They were placed under medical and psychiatric supervision. In response to medical advice, the conditions of their detention were eased progressively and they were removed from solitary confinement after two months. While the European Commission of Human Rights did not necessarily validate the action of the State in this case, it did not find a violation of any of the provisions of the European Convention on Human Rights. Krocher & Moller v. Switzerland, Application No. 8463/78 (1983).

74. It is, of course, the duty of the medical personnel concerned to advise the prison administration about any ethical objections they may have to the role asked of them by the prison administration.

Rules on solitary confinement must be spelled out clearly

75. It is, therefore, essential that the prison regulations should spell out very clearly the conditions under which solitary confinement may be administered. In places where the prisons are not or cannot be staffed with suitably qualified medical personnel (due to scarcity of resources), the prison administration can invite volunteer medical personnel from non-governmental organizations, religious and

charitable organizations to assist in attending to the health-care needs of prisoners in solitary confinement. The medical and ethical duties of health-care personnel towards prisoners is discussed in greater detail in Section IV of this Handbook.

Manacles, leg irons and instruments of restraint  
76. Rule 33 of the SMR completely prohibit the use of instruments of restraint as punishment thus:

Instruments of restraint, such as handcuffs, chains and strait jackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints.

77. But Rule 33 permits the use of restraints in very limited circumstances for the following purposes:

Rule 33

(i) as precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;

(ii) on medical grounds by direction of the medical officer; and (iii) by order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.

Against this background, Rule 34 of the SMR requires that:

The patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer than is strictly necessary.

78. Read together, Rules 33 and 34 mean that prison officials cannot use physical restraints except in order to prevent prisoners from inflicting injury on themselves or from inflicting injury on other persons. The circumstances in which medical care may justify the use of physical restraints are dealt within Section IV of this Handbook which deals with the healthcare needs of prisoners. Noteworthy, however, is the fact that these rules prohibit the use of restraints on prisoners because they are being taken before a judicial or administrative authority. Very often, prisoners are taken into court in chains and manacles. This is prohibited by the SMR.

Corporal punishment

79. This is also expressly prohibited by Rule 31 which puts it in the class of cruel, inhuman or degrading punishment. Therefore it is not lawful to beat up or flog prisoners as part of punishment for a breach of prison discipline.

Loss of opportunity for early release

80. In many places, loss of opportunity for early release, including loss of remission, is the most frequently used form of punishment. Though a suitable and popular form of punishment for breach of prison discipline, it is essential, in order to avoid arbitrariness, that this form of punishment in prison be limited to the most serious or repeated offences. It is also desirable that the extent of loss of opportunity for early release be strictly defined so as not to make it indefinite.

81. For example, until 1983, the power of prison authorities in the United Kingdom of Great Britain and Northern Ireland was indefinite. In a case arising out of Britain, the European Commission of Human Rights held in 1984 that it was not proper for prison authorities to impose a loss of remission for 570 days on prisoners without giving the prisoners an opportunity to obtain legal assistance in their defence. The

Commission disapproved of the length of the loss of remission [Campbell & Fell v. United Kingdom, (1984) 7 EHRR 165].

Sensory deprivation

82. Under Rule 31, it is not permitted for prison authorities to lock up prisoners in cells with artificial light and inadequate ventilation as punishment for breach of prison discipline or, indeed, for any other reason. For instance, in one Zimbabwean case, the punishment for a prisoner under sentence of death included placement in solitary confinement in a cell in which electric light burned 24 hours daily and controlled from a switch outside the cell. The cell was windowless and he was allowed only 30 minutes of exercise daily. This was held to be human and degrading treatment. [Conjwayo v. Minister of Justice and

Legal and Parliamentary Affairs, 1991, (1) ZLR 105 (SC)].

Reduced diet

83. Rule 32 (1) prohibits spare diet as a form of punishment except in cases where a medical officer has examined the prisoner and certified in writing that he or she is fit to sustain it. As demonstrated in paragraph 50 of this section and illustrated above in paragraph 69 in the case of Masitere from Zimbabwe, the tendency is now to regard spare diet as an improper form of punishment.

Combined or double punishment for single breach

84. Rule 30 (1) prohibits punishing a prisoner twice for a single disciplinary infraction. Very often, for instance, prisoners are transferred from their cell or from one prison to another after serving punishment for breach of prison discipline. This rule makes it unacceptable to combine punitive transfers with one or more other forms of prison punishment. However this does not cover cases where transfer is implied in the form of punishment chosen. For example, if, as a form of punishment, the prisoner is reclassified into a higher security category, this would, in a majority of cases, entail moving the prisoner to another prison that falls within the new security category. It is therefore necessary that in imposing punishment, prison officials should carefully take into account the consequences which arise or which are likely to arise from the form of punishment chosen. In all cases, additional disciplinary measures other than those logically and directly related to the form of punishment chosen should be avoided and care should be taken to minimize any additional consequences of the punishment on other rights or entitlements of the prisoners.

Review of disciplinary punishment

85. It is essential for the maintenance of orderly community life in prisons that prisoners who are dissatisfied with the ways in which the powers and procedures for maintaining discipline in prison have been administered or exercised in relation to them should have avenues for complaint. Review is, therefore, needed for two reasons, namely to ensure that prison staff do not abuse the powers and procedures through which they exercise disciplinary control over prisoners and, secondly, to rectify any abuses or injustices that occur in the administration of discipline in prisons. The prisoners deserve to be made aware of the avenues for review that exist and be encouraged to use them.

Applicable human rights standards

86. The SMR do not contain any rules or provisions concerning the review of disciplinary punishments in prisons. However, the need for some form of official review of the exercise of the

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disciplinary and related powers over prisoners is contained in Article 8 of the Universal Declaration of Human Rights which states that: Everyone has the right to an effective remedy by the competent national tribunal for acts violating the fundamental rights granted him by the constitution or by law.

87. This need is reinforced and reaffirmed in Article 2 (3) of the

International Covenant on Civil and Political Rights, in which States undertake an obligation to:

Article 2 (3) (a) ensure that any person whose rights or freedoms as here in recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.

Article 2 (3) (b) ensure that any person claiming such a remedy shall have his right thereto determined by a competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the state and to develop the possibilities of judicial remedy.

Article 2 (3) (c) ensure that the competent authorities shall enforce such remedies when granted.

88. Also, under Articles 2 and 12 - 16 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, States assume an obligation to prevent, investigate, punish and redress acts of torture or of cruel, inhuman and degrading treatment or punishment committed within their territories. As they affect the rights of prisoners, these obligations entail the establishment of an efficient prison review system for dealing with prisoner complaints.

Other legal instruments

89. The obligation to provide effective remedies - such as a functional complaints and review

mechanism - for violations of the rights of prisoners through the abuse or improper exercise of the powers of discipline and punishment is also contained in Article 1 of the African Charter on Human and Peoples' Rights, Articles 2 and 25 of the American Convention on Human Rights as well as Article 6 of the Inter-American Convention to Prevent and Punish the Crime of Torture.

The nature of the review mechanism

90. The prison administration is naturally responsible for establishing and administering an internal review process. Ordinarily, this would be part of the complaints mechanism which was explained earlier in this section. The head of the prison institution should have responsibility for administering and monitoring the process of internal review of disciplinary punishments.

91. Within national prison systems, a central review structure may be established to which prisoners may go for further review of their punishment(s) in case they remain dissatisfied with the internal review undertaken within the prison where they are held. The advantage of such a central review mechanism lies in its potential to considerably reduce the fear and intimidation factor which prisoners may feel in questioning (through review) a decision taken within the same prison in which they are held.

92. If it is to enjoy the confidence of the prisoners, the review mechanism must avoid undue bureaucracy and delay. The applications of the prisoners for review will have to be dealt with speedily and promptly.

Applications for review as well as the decisions on them should be properly recorded and documented. In addition the review panel should give reasons for its decision(s) in every case that it reviews.

93. In addition to the internal review mechanisms established within the prison system, prisoners

ought also to be made aware of the independent, external review procedures that exist. Some of these have already been highlighted earlier in this section under

“Complaints”.

Section VIII on “Inspection” later in this Handbook also discusses the organization of independent, administrative mechanisms.

Judicial review

94. The courts also have an inherent power and a duty to undertake judicial review over the administration of discipline and punishment in prisons in order to ensure that they conform with the law and are not arbitrary or unfair.

95. The major drawback of judicial review is that it requires a lot of money in legal fees and for lawyers' time. Most prisoners cannot afford these sources to make this possible and are, therefore, unable to challenge in court or some other suitable form disciplinary and other measures which result in violations of their rights. The job of watching over violations of the rights of prisoners and bringing complaints about such violations to court, is therefore largely that of volunteers and non-governmental organizations acting in the public interest and in the interests of the prisoner. Most advances in the protection of the prisoner have been won through the intervention of non-governmental organizations in this way.

96. Despite the difficulties and constraints that may exist, governments have a duty to establish facilities through which prisoners may receive legal assistance in pursuing judicial oversight over the conduct of prison administrations. Legal aid should be available to prisoners for this purpose.

Source: [www.penalreform.org](http://www.penalreform.org)

## CURE-NIGERIA PETITIONS FCT POLICE AND NHRC TO INVESTIGATE GARKI HOSPITAL ON THE ALLEGED DENIAL OF TREATMENT AND CARE FOR ANGELA IGWUETU



# Rule-Breaking by Prisoners with Mental Disabilities

Contd. from our last edition

Treatment works. Mental health and custody staff need to work together. It reduces aberrant behavior, improves staff lives, improves inmates' lives.

—Steve Cambra, former warden, California Department of Corrections and Rehabilitation. Prisoners with mental health problems may act out and break rules more frequently than other prisoners, but the behavioral manifestation of their illness will decline as the quantity and quality of mental health treatment increases.

—Bruce Gage, M.D. Chief of Psychiatry, Washington State Department of Corrections

Many prisoners with mental disabilities pose difficult management challenges for correctional staff. Their mental health problems can make it difficult for them to adapt to an extremely regimented life in an unsupportive, hostile and frequently violent environment. Especially when not receiving appropriate mental health services, they may engage in violent or disruptive conduct, act out in ways staff consider bizarre, frightening or challenging, and engage in dangerous behavior such as self-injury or striking out at staff. Persons with schizophrenia may experience prison as a particularly frightening, threatening environment and as a consequence some behave dangerously towards themselves, staff, or other prisoners. Persons with bipolar disorder in a manic phase can be disruptive, quick to anger, provocative, and dangerous. Some prisoners can become extremely violent. According to a detailed study by the *New York Times*, for example, Michael Megginson, a 25-year-old who has been in and out of psychiatric hospitals since he was 6 and is at times severely psychotic, is one of the most violent inmates at New York City's jail on Rikers Island:

In his 18 months there, he was constantly involved in some kind of disturbance, his records show. He fought with other inmates and officers; spit and threw urine at them; smashed windows and furniture and once stabbed an officer in the back of the head with a piece of glass.... He also repeatedly hurt himself, cutting his body all over, banging his head against walls and tying sheets and clothing around his neck in apparent suicide attempts.... He had 70 physical confrontations with officers.

Prisoners with psychotic disorders such as schizophrenia may find it next-to-impossible to abide by, or even to understand, prison regulations when delusions and hallucinations distort their understanding of reality. According to correctional mental health expert Dr. Jeffrey Metzner:

A small percentage [of prisoners] don't understand the rules. They're the ones who are psychotic. Prison rules don't mean much to someone hearing voices. A person with paranoid schizophrenia may, on a literal level, understand a rule but nevertheless view a request to abide by that rule as being part of a conspiracy directed against him. It's less of not understanding and more of acting on distortions.

Use of force expert Steve J. Martin points out that some "inmates don't really understand what's going on, they don't really know what they are being asked to do. They often perceive the officers' orders as threats, as an attempt by some force to do something bad to them, so they retreat, and they refuse to comply."

The available data indicates that nationwide, inmates with mental illness commit from one-and-a-half to five times more infractions (violations of the rules) than other inmates. A national survey found that among state prisoners, 58 percent of those who had a mental health problem had been charged with rule violations, compared to 43 percent of those without such problems. According to that survey, an estimated 24 percent of state prisoners with mental health problems had been charged with physically or verbally assaulting correctional staff or other inmates compared to 10.4 percent of state prisoners without such problems. In New York City, prisoners with mental health problems in 2013 represented 38 percent of the jail population but were involved in 60 percent of all "incidents;" and the "acutely mentally ill" constituted 6 percent of the jail population but were involved in 16 percent of all misconduct incidents. In one California prison, 99 percent of the rules violations were issued to inmates with mental disorders who comprised only 34 percent of the population; in another facility, 84 percent of the violations were issued to inmates with mental disorders who comprised 43 percent of the population.

## INSTITUTIONAL RESPONSES TO RULE BREAKING

The assumption that prisoners make rational choices infuses the culture of corrections. If an inmate refuses to come out of his cell when ordered to do so or swears at an officer, staffs are likely to assume he is deliberately breaking the rules. They also are likely to assume that failure to force the inmate to comply or to punish him for doing so would be tantamount to sanctioning defiance, would encourage others to engage in similar misconduct, and would promote a general breakdown in order. They find it difficult to understand—or to accept—the role mental illness can play in prisoners' ability to follow the rules behind bars.

Our research suggests the typical correctional response to difficult, disruptive, or dangerous behavior by prisoners with mental illness differs little from the response to any other inmate who breaks the rules—punishment, solitary confinement, and the use of force. In some facilities, these responses are the default mechanisms for responding to the inadequacies of mental health services for prisoners in the United States.

## DISCIPLINARY SYSTEMS

In many prisons and jails, custody staff issues a "ticket" to inmates for disciplinary infractions, and officers then hold a disciplinary hearing to determine the sanction to be imposed. The sanctions for prisoners with mental disabilities are usually the same as those imposed on other prisoners, and typically include restrictions on visits or telephone calls for a period of time, or confinement in disciplinary segregation. These measures are usually imposed without regard to the cause of the behavior, the efficacy of the measures, or the impact of the measures on particular mental conditions.

In some places, mental health professionals provide information to hearing officers about misconduct by one of their patients and may recommend that it be treated as a mental health problem and not a cause for discipline. They may also urge that sanctions be tailored to take into consideration the individual needs and vulnerabilities of the prisoner. But being able to present views is no guarantee they will be listened to. The California Department of Corrections and Rehabilitation, for example, refused to divert prisoners from the disciplinary process even when their behavior—such as disobeying an order to be handcuffed—reflected psychosis rather than willful disobedience. The punishment imposed on them for breaking the rules was, in effect, punishment for their illness.

An approach that more successfully accommodates mental illness is reflected in a recent agreement by the Department of Justice concerning policies at the Muscogee County Jail in Georgia, which requires that a qualified mental health professional should review disciplinary charges against inmates with serious mental illness to ensure that such illness "is used as a mitigating factor, as appropriate, when punishment is imposed and to determine whether placement into segregation is appropriate." In addition, jail staffs are to "consider suggestions by mental health staff for minimizing the deleterious effect of disciplinary measures on the mental health status of the inmate. Any punishment must work within the inmate's mental health treatment plan."

## SOLITARY CONFINEMENT

According to the Department of Justice, a prisoner it identified as Prisoner AA, had a mood disorder, an IQ of 66, was on the Pennsylvania Department of Corrections' mental health roster, and had been subjected to prolonged solitary confinement in Pennsylvania prisons. He attempted to hang himself after more than five months in solitary confinement. He was removed from solitary for a day and then returned for another five months, after which he again attempted to hang himself. Prisoner AA said that while in solitary he became hypersensitive to sights and sounds, became extremely depressed, and his feelings of hopelessness made him want to kill himself and act out against the guards. He also experienced visual hallucinations. For instance, he recalled sometimes seeing his deceased brother encouraging him to cut himself and to "come join me."

Corrections officials across the country rely on solitary confinement—which they usually call "segregation"—to punish prisoners who have broken the rules and to isolate those whom they deem difficult, disruptive, or dangerous, regardless of whether the behavior reflects mental health problems.

Because they are more likely to break the rules and more likely to develop reputations of being unable to function in the general prison population, significant proportions of prisoners with mental disabilities are held in solitary confinement. Indeed, compared to other prisoners, they are disproportionately at risk of being confined in solitary. In Pennsylvania, for example, prisoners with mental illness are placed in solitary at twice the rate of other prisoners. Similarly, in South Carolina, an inmate with mental illness is twice as likely to be placed in segregation as other inmates, and more than three times as likely to be assigned to security detention, the most restrictive form of segregation in that prison system.

High rates of isolation of prisoners with mental illness often reflect the failure of correctional agencies to provide them with adequate mental health treatment. After an investigation that documented systemic deficiencies in the Pennsylvania Department of Corrections' mental health services, the US Department of Justice concluded that if the department were able to provide better mental health care to its prisoners, fewer would deteriorate to the point of having to be placed in isolation. "Too often, instead of providing

appropriate mental health care, [the Pennsylvania Department of Correction's] response to mental illness is to warehouse vulnerable prisoners in solitary confinement cells." In South Carolina, a court concluded prisoners were placed in segregation and subjected to use of force "in lieu" of treatment.

Prisoners placed in solitary either for disciplinary or administrative reasons can spend months, years, and even decades locked up 23 to 24 hours a day in small cells that frequently have solid steel doors. They live with extensive surveillance and security controls, the absence of ordinary social interaction, abnormal environmental stimuli, often only three to five hours a week of recreation alone in caged enclosures, and little, if any, educational, vocational, or other purposeful activity. The stress, lack of meaningful social contact, and lack of activity in isolation can be psychologically harmful to any prisoner, with the nature and severity of the impact depending on the individual, the duration, and particular conditions. But the adverse psychological effects of isolation are especially significant for persons with mental conditions characterized by psychotic symptoms and/or significant functional impairments.

Prisoners are also harmed by the grossly inadequate mental health care typical in isolation units. Mental health services in such units are frequently limited to psychotropic medication, a mental health staff person periodically stopping at the cell front to ask how the prisoner is doing (often derisively called "walk-bys"), and occasional meetings in private with a clinician. Because of prison rules requiring prisoners to remain in their cells and the limited numbers of custody staff available to escort prisoners out of their cells, individual or group therapy and structured educational, recreational, and life-skill enhancing activities are usually not available.

All too frequently, the deprivations of solitary confinement exacerbate symptoms of mental illness or provoke a recurrence. Prisoners with mental illness may decompensate so markedly—their symptoms may become so severe and their ability to function become so impaired—that they require crisis care or hospitalization. Many simply will not get better as long as they are isolated.

According to international treaty bodies and human rights experts, including the Human Rights Committee, the Committee against Torture, and the UN special rapporteur on torture, prolonged solitary confinement may amount to torture or cruel, inhuman, or degrading treatment prohibited by international human rights treaties. Because solitary confinement may severely exacerbate previously existing mental health conditions, the special rapporteur on torture believes that imposition of solitary confinement on persons with mental disabilities of any duration is cruel, inhuman, or degrading treatment.

Since the ground-breaking 1995 case of *Madrid v. Gomez*, US federal courts in class action cases have consistently rejected as unconstitutionally cruel the prolonged round the clock isolation of prisoners with serious mental illness. The potential for grave psychological harm has also prompted health associations to call for changes in the use and conditions of segregation for inmates with mental illness. In what the Department of Justice calls "landmark restrictions on the use of solitary confinement," an agreement signed January 16, 2015 between it and the Columbus Consolidated Government of Columbus, Georgia, which operates the Muscogee County Jail in Georgia, provides that segregation "shall be presumed contraindicated" for inmates with serious mental illness. If an inmate has a "serious mental illness" or other acute mental health contraindications to segregation, that inmate "shall not remain in segregation absent extraordinary and exceptional circumstances."

Housing inmates with mental disabilities in isolation can be counterproductive to the goals of safety and security: as their mental health deteriorates they can become more difficult to manage. Rather than ending misconduct by persons with mental disabilities, solitary confinement may prompt more. For example, according to his lawyer, Jerry Williams is a 58-year-old schizophrenic, developmentally disabled man serving a 28-year term for low level crimes who has spent more than eight years in solitary confinement in North Carolina state prisons. Because he constantly receives disciplinary infractions for misbehavior related to the symptoms of his mental illness, he remains in solitary confinement year after year. Any psychological professional would be unsurprised to hear that a schizophrenic patient, locked within a small, dim, concrete box, might resort to shouting, using profane language, banging on the cell door, or throwing food and liquid. Yet, when Jerry does so, he is consistently disciplined with yet new extended terms of solitary confinement.

Since isolation can have the perverse effect of making inmates with mental disabilities more likely to engage in rule violations, it also increases the likelihood of staff use of force. Indeed, the use of force may be more common in isolation units than elsewhere in correctional facilities. As summarized by correctional expert Steve J. Martin, when a prisoner with a mental disability is placed in solitary

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confinement, "you have placed that offender in a situation in which he simply cannot cope on a daily basis without decomposing, without struggling more and more, which again leads to efforts to manage the offender with force."

As part of the 2012 settlement ending five years of litigation, the Massachusetts Department of Correction agreed to maintain two maximum security mental health treatment units as alternatives to segregation. One of the special units is for prisoners with serious mental illnesses such as schizophrenia or bipolar disorder, and the other is for prisoners with severe personality disorders. Prisoners in either unit receive a total of at least 25 hours weekly of time out of cell for structured and unstructured programming and recreation. An array of mental health interventions are offered to promote recovery, help inmates manage the symptoms of their illness, and help inmates develop the social skills and behaviors needed to transition successfully back to the general population or to the community after their sentences have been served. Custody staff volunteer for and are individually selected for work on the units. They receive mental health training that includes information on the nature and symptoms of mental illness as well as on techniques for defusing and de-escalating volatile situations.

As an incentive to good conduct, prisoners can rapidly earn additional privileges (e.g., more yard time or access to television); the consequence for misconduct is the brief loss of privileges. Disciplinary reports, assaults on staff, and suicide watch placements for prisoners on these units have reportedly dropped significantly from what they were previously. The use of force has reportedly dropped 60 percent.

#### JEROME LAUDMAN

"That shouldn't be part of his punishment to say hey, you gonna lay back here and die in your own feces and starve to death. That's beyond punishment."

Jerome Laudman died in 2008 at age 44 after 10 years in South Carolina prisons. His estate filed a lawsuit alleging cruel and unusual punishment, excessive use of force and failure to provide medical care.

Because of mental illness, including bipolar disorder and paranoid schizophrenia, Laudman had been in psychiatric hospitals 13 times in the five years before his death. Each time, however, he was returned to South Carolina prisons. In 2014, a South Carolina state judge ruled the state's prisons provided grossly deficient mental health care.

According to the estate's complaint, Laudman was placed in a crisis intervention cell in the Special Management Unit (SMU), a solitary confinement unit, at Lee Correctional Institution on December 7, 2007 because he was displaying severe emotional problems and had been refusing medications, screaming, experiencing visual hallucinations and he appeared psychotic. In January a psychiatrist observed Laudman exhibiting unusual behavior and talking to himself, with his cell in disarray. The psychiatrist prescribed various antipsychotic medications and ordered a follow-up visit in two weeks. The follow-up allegedly never occurred.

On February 7, Laudman was transferred to the special Supermax (segregation) unit within the SMU, which the complaint characterized as a unit designed to punish and provide intensive supervision to assaultive inmates. According to the administrator of the Supermax, Laudman had been transferred because he had been "trashing" his room, was uncooperative, and was parading around naked. After he refused to back up to his cell door to be handcuffed for the transfer to the new cell, Laudman was gassed with chemical spray.

Plaintiff alleges that Laudman's physical and mental health rapidly deteriorated after he was transferred to the Supermax because he did not receive necessary medical attention or care there. According to the complaint, Laudman refused to

take his medication, refused meals, ingested fecal matter, and smeared feces on himself. A sergeant at the facility told the investigator with the South Carolina Department of Corrections that on February 11 he looked in on Laudman and "he was sitting and stooped over like he was real weak or sick." The officer also stated he saw food trays piled up, that Laudman was naked, and his room was bare. The investigator's review of prison medical records revealed that there were only five medical entries from January 1, 2008 until his death. According to the complaint, Laudman had been stripped of his clothing and bedding and for a week, between February 11 to February 18, and lay naked on the cold concrete floor. By February 18, Laudman had lost a lot of weight, and had numerous sores, cuts, and bruises on his body.

The complaint continues that on February 18 a nurse received a call from a correctional officer reporting that Laudman "was down." She went to his cell and found Laudman lying naked on the floor in feces, urine, and vomit, still alive but breathing shallowly. There were 15-20 food trays with decaying food in the cell and the stench was terrible. Laudman was transported to the prison medical center alive but unresponsive, and he was then taken to a hospital. Medical notes from the hospital indicated Laudman was covered in dirt, urine, and feces when he was brought to the emergency room, and his core body temperature was 80.6 degrees, indicating hypothermia. He went into cardiac arrest and died a few hours later.

#### The Case of Jermaine Padilla

In early 2012, Jermaine Padilla began serving a 10-month prison term in California for a parole violation. According to a lawsuit Padilla filed, he had a lengthy history of mental illness and periods of hospitalization for inpatient mental health treatment. In May 2012 he was housed in the administrative segregation unit of Corcoran State Prison designated for prisoners who are considered unable to function in the general prison population because of "acute onset or significant decompensation of a serious mental disorder." Shortly after being transferred to CSP-Corcoran, mental health staff noted he manifested auditory hallucinations, his thought process became illogical, he began to refuse medication, and his mental state declined. The complaint states that mental health notes for the first two weeks of June indicate Padilla expressed paranoia, appeared psychotic, delusional, illogical and was responding to internal stimuli. On July 1 he was transferred to the prison's Mental Health Crisis Bed (MHCBC) unit. When a psychiatrist in the MHCBC unit began treating Padilla, he considered Padilla to be "gravely disabled," according to testimony he provided in court. Padilla's complaint indicates MCHB treatment team records showed he had diagnoses of schizoaffective disorder, bipolar disorder, and depression.

Over the course of the next three weeks, Padilla's mental health continued to deteriorate. The complaint alleges that treatment notes over this period indicated that Padilla took off his clothes and stayed naked, talked as if he were responding to internal stimuli, and sometimes screamed. He urinated on his mattress and on the floor of his cell, smeared feces, peanut butter and food remains upon a dried puddle of urine. According to the psychiatrist, Padilla was completely unresponsive to any treatment efforts. Padilla also refused to eat. On July 24, he smeared himself with feces. The psychiatrist testified in court that he decided that Padilla presented an emergency situation and he asked custody staff to remove Padilla from his cell so that he could be involuntarily medicated. He stated that he believed Padilla would have died without the involuntary medication.

As seen in a video that plaintiffs introduced as evidence in the class action case *Coleman v. Brown*, a mental health staff member spoke to Padilla briefly—for about half a minute—trying to get him to voluntarily "cuff up" (voluntarily submit to being restrained in handcuffs) so that he could be escorted from his cell. When that effort failed, a member of the prison medical staff cleared the use of

chemical agents against Padilla, that is, she indicated he had no medical conditions such as asthma that should preclude the use of the agents. A cell extraction team assembled in front of Padilla's cell wearing gas masks, suited head to toe in biohazard suits, and armed with handcuffs, leg irons, batons, a full-length plastic body shield, and fire-extinguisher-sized canisters of pepper spray. The extraction team leader read Padilla a warning that if he did not cuff up he would be forcibly extracted as well as disciplined. Padilla refused.

The video shows that custody staff proceeded to spray Padilla with OC (oleoresin capsicum) six times over a period of approximately six-and-a-half minutes. A psychiatrist working as an expert for plaintiffs in the class action case *Coleman v. Brown* who watched the video of Padilla's cell extraction said that although it appeared that Padilla could "not understand or comply with such orders, each failure by [him] to 'cuff up' [was] met by another injection of OC spray into the cell. Even as [Padilla] [was] repeatedly crying for help, there [was] no further attempt by officers or clinicians to engage him. Rather, they administer[ed] more OC spray." The video shows Padilla screaming in pain, yelling for help, and sometimes crawling on the floor of his cell. A use of force expert for plaintiffs in *Coleman v. Brown* who watched the video stated that Padilla "was not lucid or coherent enough to be able to follow the officer's orders to back up to the cell and 'cuff up'. He turned in circles near the cell door but did not get the concept that relief might come if he could back up to the cell door and then manage to place his hands through the cuff port in the door."

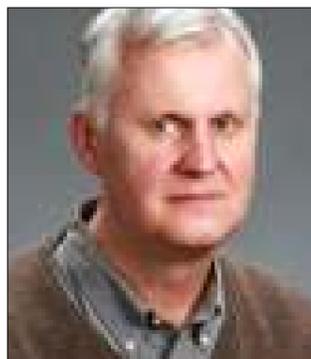
His complaint alleges that Padilla believed the extraction team was "there to harvest his organs or turn him into a cyborg." According to an incident report subsequently filed by a captain who authorized the cell extraction and observed it, during the extraction Padilla was "very confused and disoriented" and was "observed in a mental state where he could not follow the simplest [sic] instruction."

When the use of spray did not succeed in making Padilla agree to cuff up, a supervising officer decided the team should enter Padilla's cell and physically extract him. As shown on the video, an extraction team entered his cell, used the full-length shield to pin him down, and then put arm and leg restraints on him while he continued to scream and resist. He was placed on a gurney, naked, with his genitals exposed, and taken to a restraint bed where he was fully immobilized. On the video, as Padilla is being wheeled into the room and put in restraints, he can be heard making statements such as "Why is this happening," "I didn't do nothing wrong ... I don't want to decapitate nobody ... Why is my skin falling off?" and "I don't want to be executed." His complaint alleges that Padilla was "scared that Defendants were going to cut off his limbs with a chainsaw, put a fake heart in his chest, or do experiments on him. It seemed to him that everything he feared from his hallucinations was coming true."

Padilla was involuntarily medicated by injection and kept immobilized in restraints for about three days. The complaint alleges that he was not allowed out of restraints to use the bathroom; he urinated on himself, the bed, and the floor. The psychiatrist treating him testified that Padilla's "combattiveness when psychotic" warranted great caution before removing the restraints, and he thought Padilla should remain restrained until he agreed to take his medications orally, was likely to take medications voluntarily in the future, and had a "demonstrated ability to acknowledge and state the reason he's restrained." According to the complaint, after Padilla had been restrained for 72 hours, another psychiatrist ordered him released from the restraints. The complaint in his case states that he was subsequently transferred to an inpatient mental health hospital within Salinas Valley State Prison. He was released from prison on February 14, 2013.

Source: [www.drugrehab.org/can-i-go-to-rehab-while-on-probation/](http://www.drugrehab.org/can-i-go-to-rehab-while-on-probation/)

## SEATTLE LAW-SCHOOL GRAD'S BRIGHT FUTURE OUTSHINES HER ROUGH PAST, STATE HIGH COURT SAYS



By  
STEVE MILETICH  
Seattle Times staff reporter

The state Supreme Court, in a moving and powerful decision issued Thursday, has laid out its thinking in allowing a woman with a troubled history of drugs and crime to become a lawyer.

Tarra Simmons took the state bar exam in February. (Matt Hagen)

Nearly five months ago, the state Supreme Court ruled that a Seattle University law-school graduate who overcame

a history of crime and substance abuse could take the state bar exam.

In doing so, the nine-member court unanimously

rejected the recommendation of a Washington State Bar Association board to deny Tarra Simmons that opportunity.

The ruling cleared the way for Simmons, 40, to take the bar exam in late February. She is to get the results on April 13.

But it wasn't until Thursday that the court provided its reasons for the decision.

In a 33-page opinion, Justice Mary Yu laid out the court's thinking in the formal, stilted language of the law before articulating its simple conclusion on the power of redemption:

"We affirm this court's long history of recognizing that one's past does not dictate one's future."

As described in [the opinion](#), Simmons was born to parents with substance-abuse problems. She grew up in poverty, surrounded by crime. A victim of sexual violence, she was homeless at times and, as a juvenile, took part in criminal conduct that included theft, possession of stolen property and second-degree assault.

As an adult, she struggled with addiction. Her

criminal history included an assault conviction in 2001 and convictions in 2011 for organized retail theft, unlawful possession of a firearm and possession of controlled substances.

She served more than three years in jail and prison, and underwent two bankruptcies and foreclosure on her home. Her nursing license was placed on probationary status.

Simmons said Thursday she was "happy and excited" by the breadth of the ruling.

Simmons said she has been doing legislative work for the Public Defender Association in Seattle and hopes, if she passes the bar exam, to start handling cases.

Eventually, Simmons said, she wants to work on appellate cases helping people overcome barriers to re-entry after serving prison time.

In her opinion, Yu wrote that Simmons began "meaningful treatment" while in prison and "changed her life to a degree that can only be deemed remarkable, both in terms of the efforts she has put forth and the positive results she has achieved."

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Simmons has been sober for six years, according to the opinion. She has been candid about her past, shown remorse and sought to make amends by acting as an "outspoken advocate" for legal aid, focused on people who have served time and face barriers after being released.

At Seattle University, Simmons became the first student in the law school's history to be awarded a two-year public interest fellowship from a prestigious foundation. She graduated magna cum laude as a dean's medal recipient last year.

During five internships, Simmons "excelled and exhibited consistently ethical behavior," Yu wrote, citing letters from her supervisors and colleagues.

Despite Simmons' "about-face life choices," the Washington State Bar Association's Character and Fitness Board, in a 6-3 vote, recommended that she not be allowed to seek a license to practice law, according to the opinion.

Although Simmons had proved her ability to perform legal tasks and skills and communicate her knowledge, she had failed to demonstrate her ability to exercise good judgment and conduct herself with a high degree of degree of honesty, integrity and trustworthiness in her various dealings, the board found. She also had failed to conduct herself in a manner that engenders respect for the law and the rules of professional conduct, the board concluded.

On Nov. 16, the court disagreed, granting Simmons' request to take the bar exam.

In Thursday's opinion, the court rejected the board's concern that Simmons had shown an unwarranted

sense of entitlement because of her achievements. Simmons "has attained privileges and recognition beyond the reach of others due to her hard work," Yu wrote.

"She earned everything she has through dedication, talent, and a staggering amount of hard work," Yu added. "Simmons rightly takes pride in her extraordinary accomplishments, but there is no evidence that she expects special treatment."

Yu noted that [one of Simmons' attorneys, Shon Hopwood](#), had been allowed by the board, after excelling in law school, to take the state's bar exam in 2014 after serving a 10-year prison sentence for bank robbery and using a firearm.

"Both Hopwood and Simmons are living examples of a person's ability to change if he or she has the will and opportunity to do so," Yu wrote.

Simmons has shown she is of good moral character and fit to practice law, the court concluded while emphasizing that it didn't believe the bar board acted arbitrarily or in bad faith.

"We simply disagree with the Board's recommendation in this particular case," Yu wrote.

Annette Clark, dean of the Seattle University law school, said in a statement Thursday that Simmons was admitted four years ago with full knowledge of her past mistakes.

Simmons has "proven over and over again that we made the right decision in giving her a second chance," Clark said. "The opinion released by the Washington Supreme Court ... thoughtfully

articulates the reasons why she should be allowed the opportunity to take the bar exam and become a practicing attorney.

"It is precisely Tarra's lived experiences and the way in which she has made restitution and rebuilt her life that make her such a powerful and passionate advocate for justice-involved individuals who are seeking to re-enter society. I look forward to the proud day when Tarra can take her place within the Washington State Bar," Clark said.

The state bar association, in a statement, said it appreciated the court's "affirmation that the process worked as it should."

*"We wish Ms. Simmons all the best," the statement said. Seattle Times news researcher Miyoko Wolf contributed to this story.*

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**CURE-Nigeria calls for reforms of our laws and policies that restricts ex-prisoners from getting public service jobs, and participating fully in their communities, as well as in politics and becoming who they want to become. This is important to achieve a full rehabilitation and reintegration of ex-prisoners into society as productive citizens of our nation.**

## PHYSICAL CONDITIONS - BASIC NECESSITIES OF INMATES

1. Living conditions in a prison are among the chief factors determining a prisoner's sense of self-esteem and dignity. Where he or she sleeps, what he or she is allowed to wear, what, how and where he or she eats, whether he or she has a bed with sheets and blankets or sleeps on the floor, covered only with rags, whether or not he or she is allowed to wash and with what frequency, whether he or she has ongoing access to a toilet or has to ask (or sometimes plead with) the guard each time, all this has tremendous influence on his or her physical and mental well being.

2. All chief human rights documents emphasize the right to human dignity. In fact, the Universal Declaration on Human Rights reaffirms this right in its first Article. Article 10 of the International Covenant on Civil and Political Rights mandates:

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

The Basic Principles for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment contain similar provisions in their first Principle.

3. But extremely poor physical conditions, in addition to violating a prisoner's right to dignity, may also amount to cruel and unusual punishment, may be dangerous to an inmate's health or even life, and as such, violate his or her right to be free from "torture and cruel, inhuman or degrading treatment or punishment," as specified by the Universal Declaration on Human Rights (Article 5); the International Covenant on Civil and Political Rights (Article 7); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and again, in even more precise terms, by the Body of Principles (Principle 6). In some cases, these conditions may be applied on purpose, to break a prisoner down, to intimidate him or her, to force him or her to testify, confess, etc., in some they result from neglect. In either event, they constitute a severe violation of one of the basic human rights.

4. The U.N. Standard Minimum Rules for the Treatment of Prisoners (SMR) contain several detailed articles concerning the issues related to the material side of prison conditions and they will be discussed below. Good prison conditions by creativity no less than by money

5. As in most aspects of prison conditions, in those related to accommodation and prisoners' basic necessities, a lot depends on and can be improved

through policy changes as well as creativity of the staff and not only through huge financial expenditures.

6. For the staff members in charge of setting up accommodation for inmates or making decisions about the numbers of prisoners that can be admitted to a particular institution it may be helpful to always remember that a cell is for a prisoner what a home is for themselves.

They might try to picture themselves living in a particular cell and think what would matter most to them under the circumstances, what changes could be made at a relatively low cost, or, conversely, what would be the most unpleasant feature for them. With this frame of mind, they would be able to make decisions that would make the best use of the existing infrastructure and, at the same time, they would know when to draw the line.

7. Even if it is difficult to achieve meaningful improvements in the physical conditions of incarceration without investing significant sums of money, it is no excuse to subject prisoners to conditions that violate human rights and dignity. (On this point see 'Where the Handbooks starts from' paragraphs 9 and 10).

Moreover the prison is the working environment for prison staff, who also have a right to expect reasonable conditions. In the interest of both prisoners and staff it is important that professional associations, on-governmental organizations, concerned individuals, including prison staff, and other individuals who work in prisons should draw the attention of country's political leaders to these problems and make clear that anyhow prison systems should not be burdened beyond their resources.

Accommodation, Cells and Dormitories

8. Rule 9 (1)

Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

Whilst single cells desirably should be used for single prisoners, experience has shown that it is not necessarily undesirable to forbid allowing two prisoners to occupy a single cell, provided that its space, ventilation, furnishing, sanitation etc. are up to standard. In this respect Rule 9 (1) is outdated. If, for special reasons, cells are to be occupied by more than one prisoner, the prison administration, however,

must take all reasonable care to ensure that coercive homosexuality and any other forms of abuse do not occur.

9. A further responsibility for the prison administration is to ensure that minimum physical standards are met with respect to:- per capita floor space and ceiling height;- lighting and ventilation;- access to private and hygienic sanitation within the cell, or adequate opportunities to use external sanitation;- bedding and furniture, allowing inter alia personal effects to be stored privately.

10. Rule 9 (2)

Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the institution.

Dormitory housing brings about a whole range of safety concerns.

High numbers of people with criminal and sometimes violent backgrounds housed together are likely to single out some vulnerable inmates for abuse or are prone to other types of dangerous behaviour, such as gang-related activities. Per capita requirements should apply in dormitory housing. (See paragraph 9.)

11. For these and similar reasons extreme caution on the part of the prison staff must be exercised in particular when using dormitory types of housing. Inmates with a history of violent behavior, either within prisons or outside, should never be housed in dormitories. Prisoners should not be housed in dormitories unless prison staffs know enough about them to be able to assess their suitability to be housed together, as mandated by the Rule.

12. In order to be able to supervise a dormitory at night, a guard must inspect it at regular intervals, not longer than one hour. In addition, he or she needs to be stationed within earshot of the dormitory and be able to hear what is going on inside at all times (so that help can be summoned immediately). Inspections however should not be intrusive.

They should be carried out in such a way as not to wake prisoners who are sleeping.

13. To emphasize, that accommodating prisoners in single cells according to the SMR clearly is considered to be the general rule, attention maybe drawn to Rule 86 of the SMR, stating that: "Untried prisoners shall sleep singly in separate rooms, with the reservation of

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different local custom in respect of the climate.”

This Rule underscores the point that untried prisoners, who are considered innocent until their guilt is proven in the court of law, should be afforded conditions that are at least as good as those for sentenced prisoners. (See also Section I paras. 41-43).

14. It is desirable that there should be a full programme of daily communal activities. Under these circumstances prisoners spend much time in association with others. The opportunity to enjoy privacy as well as personal space becomes, therefore, important. The form of accommodation provided - single cells or dormitories - is relevant in this connection. When prisons are built or taken into use, careful consideration should be given to this aspect.  
Space

#### 15. Rule 10

All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

Many national prison regulations are much more specific than the SMR when it comes to the actual size, temperature or ventilation of cells.

The vagueness of SMR is intentional in this place: a cell located in an extremely cold climate needs to be different from a cell located in a tropical one. The key part of Rule 10 is that accommodation must meet all requirements of health. In other words, the administrators must take care to assure that conditions are not harmful to an inmate's health.

Sleeping in extremely stuffy, or cold, or damp rooms leads to a number of ailments. Spending long hours in extremely crowded rooms, especially in those cases when prisoners don't work and do not leave the cells except for short recreation periods, may lead to muscle atrophy. Where prisoners are required to work in their cells, the work materials often crowd the place even further, while work in the cell may lead to additional health problems.

There are some ways of alleviating the effects of overcrowding using the existing resources, and any creative prison administrator will be able to come up with them. Here are a few examples:

16. In a prison where some inmates work outside of their cells and some spend the whole day in the cells, those in the latter category should be given preference in alleviating the overcrowding, because due to spending the whole day locked in, they feel the overcrowding more than the others.

17. When cell overcrowding is a big problem, prison administrators and cellblock staff should devise a plan for letting the inmates spend as much time as possible each day out of the cells (in the hallways, in gyms, in the patios, etc.) to provide additional recreation in order to ease tensions related to overcrowding.

18. Staff members should also examine inmates' distribution within the existing space. Very often they may discover that cells are not used in the best possible way or, more rarely, that some cells are empty while other ones are extremely crowded.

#### Light and Ventilation

#### 19. Rule 11

In all places where prisoners are required to live or work:

(a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;

(b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

Spending an extended number of hours in a badly lit area may cause permanent damage to the eyesight. Efforts should be made to assure sufficient light. Prolonged exposure to artificial light only may also be harmful both to a prisoner's vision as well as to his or her mental well being. For that reason all windowless cells that currently exist (in clear violation of SMR)

must be eliminated and all other cells should have sufficient artificial light, in addition to the source of natural light. Prisons that might use so called "blinds" covering the cell windows, in order to prevent visual communication between prisoners and the outside world, clearly are not acceptable.

20. Every cell should have an electric switch inside the cell, not being able to make a decision about turning the light on or off unnecessarily adds to the feeling of powerlessness and frustration on the part of the prisoner. To assess the adequacy of the lighting in each cell prison staff members may conduct a very simple test by inspecting all cells with a book at hand and trying to read a few lines in each cell.

#### Hygiene Sanitation and Cleanliness

#### 21. Rule 12

The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

Being able to take care of one's physical necessities in private and in a decent manner is extremely important to everyone but especially to prisoners whose sense of self-esteem and dignity may have already been shaken by other factors related to incarceration.

22. It is particularly important that prisoners have access to a toilet at all times. Nobody should be put in a position when one's ability to take care of the most basic physical needs depends on a guard and his or her availability or willingness to open the door and lead a prisoner to a bathroom.

23. Toilets located in or adjacent to the cells should have covers and should be separated from the living area by a wall or at the very least, a partition. This is particularly important in prisons where prisoners eat in the cell because eating in the presence of an open toilet is extremely unpleasant. Efforts should be made to provide all cells with flushable toilets; if this is impossible, containers used need to be emptied several times a day  
. Toilet paper should be kept in constant supply.

24. In dormitory-type cells, if supervision of toilet areas is needed for security reasons, such supervision should always be done by staff members of the same sex as the inmates.

#### 25. Rule 13

Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate. Being able to stay clean is one of the key factors helping prisoners to maintain their dignity. Efforts should be made to allow any prisoner the use of a shower every time he or she wants to use it. When this is impossible because of the shortcomings of the infrastructure, there should be a schedule for showering, adjusted to the temperature and the climate of the location.

26. Ready access to hot and cold running water would obviously be the ideal situation and should be the goal of every prison; intermediate steps may be taken, however, when this is not possible. In tropical climates, prisoners may use cold water to wash themselves. If running hot water is not available often enough, arrangements may be made to be able to heat water and prisoners should be provided with washbasins.

27. Prisoners employed in very strenuous or dirty jobs should be able to take a shower at the end of each shift.

#### 28. Rule 14

All parts of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

Prisoners should be required to keep their cells clean; the prison needs to provide the necessary supplies to do so, such as buckets, soap, mops, brooms, etc. Each

prison should also devise a routine for maintaining the cleanliness of common areas of the prison, using prisoners as labor force and devising a system of remuneration or rewards for work performed. (See also Section VI under 'Prison Labour').  
Personal Hygiene and Care

#### 29. Rule 15

Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

As stressed under Rule 13, prisoners' ability to maintain their personal hygiene determines to a large extent their capacity to keep up their self-respect. For this to be possible, in addition to water the prison needs to supply inmates with soap, toothbrushes, toothpaste and towels, as a minimum. When inmates are allowed to receive or buy such items from outside, the prison still has the responsibility to have these items available, since some inmates will not be able to afford them. If a prison has difficulties in providing articles to all prisoners, they should be in the first place assigned to indigent prisoners.

Cellblock staffs are best able to identify prisoners in most need of these items.

30. One additional thing to remember when arranging for prisoners' access to toilet articles, is to provide them with a place in which to keep toilet articles of personal use (such as toothbrushes, for example) and the articles that are not kept in constant supply in the common areas. This needs to be done to avoid theft and fights among prisoners, but also to provide them with a sense of privacy.

31. That prisoners keep their body clean, and thus free of odor or insects, is also important to the health and well being of everyone forced to spend extended amounts of time in the cell blocks, that is chiefly the prisoners, but their guards as well. Staff members should strive to make this possible, while avoiding the use of coercion.

32. Though most prisoners will eagerly take advantage of every opportunity offered to use a shower, some may not. All prisoners should be required to keep their bodies as clean as possible. This is particularly important where sleeping accommodation other than single cells is in use.

33. Special arrangements need to be made for menstruating women. They should be able to wash themselves and their undergarments as often as they need to. In addition, they should be provided with sanitary material typically used by menstruating women in the country (such as pads, tampons, cotton, cloths). It is important that these arrangements be available to women under conditions in which they do not need to be embarrassed asking for them (for example either dispensed by other women or, better yet, accessible whenever needed). In those prisons where women live with their children, provisions should be made for adequate hygienic conditions and facilities for infants.

34. It should be noticed, that personal hygiene and washing can include a religious dimension. Rule 6 is the basic principle about no discrimination, among other things on grounds of religion. This means that prisoners should be able to undertake personal hygiene in accordance with their religious beliefs.

#### 35. Rule 16

In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.

This Rule expands the preceding one and essentially does not require further explaining. An important note, however, is due on the issue of hair, including beards and shaving.

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36. Prisoners heads should never be shaved against their will, except for demonstrable medical reasons. They should also be allowed to wear facial hair if they wish so. As mandated by the rule, men who do not have beards should be enabled to shave regularly. Obviously, access to blades or other shaving instruments may for security reasons have to be closely supervised. In addition, staff members must make absolutely sure that no shaving instruments are shared by two or more inmates. Because of the spread of AIDS (which within prison populations tends to be more severe than in the nation as a whole and thus can be quite pronounced even in countries that do not perceive themselves as "having an AIDS problem") sharing of a shaving instrument may lead to contamination with the HIV virus and consequently, to death. Thus, in situations where, for example due to temporary shortages or other reasons, it is impossible to provide all prisoners with their own shaving instrument, inmates should wear beards rather than shave. Also, when inmates are issued or can purchase their own razors or blades, if these are not of the disposable kind, they should be stored in such a way as to avoid an accidental or intentional use by another person. Short of issuing every prisoner with a locker and a key, a guard may keep all blades in a locked cabinet, in separate containers, clearly marked with each prisoner's name.

37. In countries where women traditionally wear make up, they should be allowed to do so in prison as well. This is a measure that does not involve security considerations nor does it require additional expenditures (it is about allowing not providing make up) yet it often can make a big difference in the way inmates feel about themselves.

#### Clothing and Bedding

#### 38. Rule 17 (1)

Every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating.

This Rule emphasizes two major aspects of clothing, its protective function and its social and psychological function. Clothing should therefore be appropriate for weather extremes as well as for special working conditions. But adequate and decent clothing, in addition to affecting in an obvious way prisoners' health, also affects their morale.

This is especially true of a prisoner's own clothing, or at least clothing, which is not a uniform. To wear one's own clothing is a part of one's identity and therefore increases one's self-respect and individuality.

Prison uniforms have the opposite effect. If prisoners are to be provided with clothing, civilian clothing therefore is far preferable to prison uniforms. Whilst overalls may often be used for work it is advisable to allow prisoners to wear their own or civilian clothing after work.

39. Rule 88 deals particularly with clothing of untried prisoners.

#### Rule 88 (1)

An untried prisoner shall be allowed to wear his own clothing if it is clean and suitable.

#### Rule 88 (2)

If he wears prison dress, it shall be different from that supplied to convicted prisoners.

The fundamental principle of Rule 88 is that untried prisoners shall wear their own clothing. If, however, they wear prison dress – which presumably meant a prison uniform at the time when the Rules were drafted - it is said to be different from that of convicted prisoners. The distinction in clothing was no doubt meant to avoid stigmatization of the untried prisoner. However, if an untried prisoner is not able to wear his or her own clothing, the next step, logically, is to provide him or her with substitute civilian clothing.

This should, therefore, be provided either by the prison authorities or from some other appropriate source. The second part of the Rule then becomes unnecessary so far as untried prisoners are concerned.

By implication, however, convicted prisoners wear a prison dress or uniform which can be perceived as stigmatizing. This is undesirable and, indeed, already in a number of countries even convicted prisoners wear their own, or civilian clothing (jeans, for example) or a prison dress which closely approximates to civilian clothing. This is a development which is to be welcomed and means that making a distinction between the clothing of unconvicted and convicted prisoners is no longer necessary.

40. Where uniforms are still in use, or civilian clothing is provided, those should be available in different sizes, so that no inmate is required to wear inadequate size clothing making him or her look and feel embarrassed or uncomfortable. Staff members need to take care to match each prisoner with an appropriate size of clothing. For inmates with unusual body size, there may be a need to do alterations. This can be usually done by prisoners themselves, as long as they have access to sewing materials, something a guard should easily be able to facilitate. Sometimes, however, for security reasons, for example, he or she will not want to issue scissors and other sharp objects to a particular inmate or a cell. In such situations, they may arrange for other means of making size adjustments (other prisoners, or by sending the clothes outside).

41. It is also important that uniforms comply with the general clothing style of the imprisoned individuals, so that, for example, women from countries where females normally do not wear pants, are not forced to wear them.

#### 42. Rule 17 (2)

All clothing shall be clean and kept in proper condition.

Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.

Some of the issues related to this rule were discussed above, under Rules 13 and 15. It is worth pointing out that there is a lot that staff can do to make the keeping of prisoners' clothes clean easier. In most places, with the exception of locations with tropical climates and institutions equipped with clothes dryers, the most significant problem is the drying of the clothes. Cellblock staff, through their intimate knowledge of the institution and of its inmates, are best positioned to come up with a system for drying inmates' clothes and underwear, by designating special area or areas, providing rope to hang the clothes, etc. Important aspects to also take into consideration while doing so are the fire safety and the safety of the garments (where theft among inmates is a problem).

43. Where clothing - this includes underwear - is issued by the prison, it should nevertheless be a personal issue to each prisoner for use during the serving of a sentence, e.g. after laundering and repair.

#### 44. Rule 17 (3)

In exceptional circumstances, whenever a prisoner is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other inconspicuous clothing.

This rule is meant to protect the self-esteem and privacy of the prisoner that is to prevent him or her from calling attention to their person when in public. Thus, when outside of the institution, prisoners could either be allowed to wear their own clothing or an inconspicuous-looking type of clothing, rather than a uniform readily identifiable as prison garb, such as for example a striped jumper or suit, or a jumper in a very bright uniform color.

#### 45. Rule 18

If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use.

Where prisoners are allowed to wear their own clothing and shoes, in addition to devising a system for admission of these items from outside, it is important to remember that some prisoners may not be able to afford clothes to be brought to the prison for them or they may have no one to do it for them. This is particularly true for poor and foreign inmates. Thus, even if wearing civilian clothes is allowed, the prison still has the responsibility to provide clothing for those

in need. It is important for staff members also to be attentive to the fact that some prisoners may initially not need any prison-issue clothing or shoes but when the ones the inmates had been brought into prison wear out, there will be a need for replacement.

#### 46. Rule 19

Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

Individual, clean beds (or mats in countries where it is customary to sleep on mats) with clean bedding should obviously be the goal at every prison. Practice, however, is sometimes different. When a prison is unable to provide sufficient bedding but allows families to bring those items from outside, it is again important, as in Rule 18, that staff members be sensitive to the needs of prisoners without the means to secure these necessities from outside. When a limited number of such items is available in the prison, staff members should strive to allocate them to those in most need based on the above factor.

#### Food

#### 47. Rule 20 (1)

Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.

As stressed under Rules 18 and 19, also with food, when it can be brought or purchased from outside, it is important to make sure that those without a support system on the outside receive adequate food from the prison.

48. Any prison professional will readily admit that complaints about quality and/or quantity of food are among the most common he or she receives. One very simple, though seldom applied way, for prison staff members to assess the validity of these complaints is - on regular basis or occasionally - eat the food served to the prisoners themselves and make sure that this practice is common throughout the institution.

Other important nutrition-related factors, in addition to the quality and quantity of the food, are where, when and how often the meals are taken and with what utensils. Prison staff members should make all efforts to assure that the utensils are clean and in accordance with local customs of eating. In institutions without dining halls it is also important to arrange things in such a way that prisoners do not have to eat near badly smelling toilets.

49. Notice that Rule 87 also deals with food. This Rule is frequently not implemented, because of practical difficulties, some of them being explained below under para. 51. It reads:

"Within the limits compatible with the good order of the institution, untried prisoners may, if they so desire, have their food procured at their own expense from the outside, either through the administration or through their family or friends. Otherwise, the administration shall provide their food." Rule 87

#### 50. Rule 20 (2)

Drinking water shall be available to every prisoner whenever he needs it.

Drinking water should be available to prisoners at all times, both during the day and at night. When cells are not equipped with faucets carrying drinkable water staff members are in a position to devise a system for keeping drinkable water in constant supply. Such a system may consist of issuing prisoners with clean plastic soda bottles or other safe containers to keep the water in or a number of other arrangements, always making sure that the water is clean and that it is always in the cell, without the need for the prisoners to ask for it.

Outside support for basic necessities<sup>51</sup>. A frequent theme in the above discussion of rules relating to basic necessities has been the necessity to pay particular attention to the needs of prisoners without a support system on the outside of the prison. Even though the rules mandate that a prison system takes care of all the basic necessities of its inmates, in practice prison administrations often allow for certain goods to be delivered to the prison by relatives or to be purchased on the outside by inmates themselves. This is done to make a prisoner's life a little more tolerable, but sometimes it is also done because the prison system is unable to provide enough of clothing, food, bedding

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or toilets articles to all the inmates. In effect, family members are thus asked to replace what should be taken care of by the state. However, to insist on a rigid ban 67of the system might unnecessarily penalize prisoners. But use of the system does not absolve the state from seeking to fulfill its responsibilities.

52. Moreover there are dangers involved in the use of this system. When some prisoners receive many more coveted objects than others, a system of hierarchy

between inmates is invariably set up: a division between the "haves" and the "have-nots". This is especially pronounced in the systems where deliveries from outside virtually replace the government as provider of the basic necessities, either due to an acute crisis or to negligence, or a combination of both. In such cases, prisoners who have no outside support are forced into virtual slavery with their more fortunate fellow inmates and perform a variety of tasks for items such as food or blankets simply in order to survive.

It is very important for staff members to be attentive to a possibility of such arrangements and to prevent them, as well as to pay particular attention to the most vulnerable prisoners, i.e. foreigners and the poorest ones.

Source: <https://www.penalreform.org/>

## CURE-Nigeria in the NEWS Recently

# NHRC/NGO calls on FG to implement Anti-Torture Law

By Maureen Onochie

National Human Rights Commission (NHRC) in partnership with the Citizens United for the Rehabilitation of Errant (CURE) organization has called on the federal government to implement the Anti-Torture law in order to stop the infringement of human rights by the law enforcement agencies on citizens and criminal suspects.

Speaking today in Abuja while training law enforcement personnel on the new Anti-Torture Law Act 2017, the Executive Director of CURE, Sylvester Uhaa said the implementation of the law will go a long way to protect the dignity of humanity and stop law enforcers from torturing criminal suspects.

According to him, Nigeria's image has been damaged because people have seen Nigeria as a country who do not obey laws and for treating people barbaric against the law.

He said torture was not an option to get the truth from suspected criminals hence law enforcers should apply intelligence while seeking the truth of a case rather than torture.

One of the officers representing the Nigerian Police Force pleaded to the government to train and retrain the officers as some of them do not even know that they were not supposed to apply torture while investigating a case.

Another Police Officer said most times, top officers and politicians who have interest in the criminal case are the ones who give orders to torture the suspect and get him to either say the truth or accept an offence he never committed. A female officer representing the Nigerian Security Civil Defence Corps (NSCDC) said it was unfortunate that the law enforcement agencies do not have adequate facilities to carry

out proper investigations hence the lack of a proper data system in the country was another factor that have stalled proper investigating.

On her part, Acting Executive Secretary, NHRC, Mrs. Oti Ovwah said there were concerns over the issue of torture in Nigeria and all over the world as the case of torture represents some of the grave human rights violations witnessed in recent times hence it was a gross violation of human rights to the dignity of the human persons and "it is totally unacceptable."

She said the aim of the training was to create awareness on the illegality of the use of torture as a means of investigation and extracting information from persons.

Source: *Daily Trust 12th April, 2018*

## CURE-NIGERIA PARTNERS L.E.A PRIMARY SCHOOL DUTSE-ALHAJI AND SCIENCE PRIMARY SCHOOL BWARI FOR SPEECH & PRIZE GIVING DAY, 2018.

As one of the Corporate & Social responsibilities of Citizens United for the Rehabilitation of Errants (CURE) Nigeria, "Education Support Programme" books were donated to two (2) public schools: namely Science Primary School, Bwari, Abuja and L.E.A Primary school, Dutsen Alhaji, Abuja as prizes to be used during their school's end of session activities.

The reason for this gesture of CURE-Nigeria is to encourage the pupils creates and develop a good reading habit which would help increase their level of reasoning and exposure to knowledge. Also, it targeted at assisting parents of the pupils to reduce financial burden, and lastly to keep the pupils busy, hence dealing with idleness during their long vacation.

CURE-Nigeria was represented by two staffs at the school's prize giving day ceremony and was given opportunity to enlighten pupils on the benefits of education, also to present prizes to some pupil. We found the activities interesting and colorful with diversity in culture displayed. We hope to touch more lives by rendering better assistance when need be.



Mgmt. of L.E.A Pry Sch. Dutse with Barr. Judith & Mr. Uche of Cure-Nig.



Staffs of Science Pry Sch. Bwari with Barr. Judith & Mr. Uche of Cure-Nig.



Presentation of prizes to pupils of L.E.A Sch. Dutse & Science Pry Sch. Bwari by Reps. of Cure-Nigeria

## MONETISATION AND COMMERCIALIZATION OF NIGERIA'S ELECTORAL SYSTEM AND ITS MANURING EFFECTS ON BAD LEADERSHIP

Electoral system everywhere in the world, especially in democratic countries is one of the most cherished and preserved part of democratic institution and or process. One can tell a successful nation by taking a look at how transparent the electoral process is.

In advanced democracy, the electoral process is centred on the people who are the major stakeholders in elections. They are mechanisms in place to check how much is spent on election by each of the political parties and who are the major financiers, most importantly, who and what determines election victory.

We have achieved some good success in amending parts of our constitution to address loopholes in our electoral process and also the

recent most praised Not Too Young To Run Bill signed into law by the president. However, there are other threatening issues staring us in the face with inadequate measures in place to checkmate it by any means. The masses seems to be blind to this and the elites (the rich) take it as an opportunity to remain relevant and have their way – by monetising and commercialising the electoral process.

This is a monster we must face and defeat as a matter of urgency, else every effort at ensuring free and fair electoral process and expected dividends of democracy could only be a mirage.

There is so much money in our politics today that one begin to wonder what become of a common man with qualification, capacity and integrity but no money. The answer is best known to us – No way!

From the point of expression of interest in the various political parties to electioneering and the actual voting, it is all about money exchanging hands in no small amount.

A breakdown of the pre-election sales of form by the incumbent ruling All Progressive Congress (APC) prior to the 2015 general election primaries shows a huge and frightening sum, the breakdown revealed that: N27.5 Million for Presidential aspirant (expression and nomination), incumbent governors paid N10.5 million, N5.5 million for fresh aspirants, incumbent senator paid N5.3 million, fresh aspirants paid N3.3 million, incumbent House of Reps members paid N3.2, fresh aspirants paid 2.2, Incumbent State House of Assembly members paid N800,000, fresh aspirants paid N550,000. This made the total money realised from 102 governorship aspirants alone to

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sum up to N561 million.

The Peoples Democratic Party (PDP) on the other hand was not different as they collected N22 million for presidential aspirants (expression and nomination), N11 million for governorship aspirants, N4.5 for Senatorial aspirants, N2.5 for House of Representatives and N 1.2 for State House of Assembly aspirants, which was said to have earned the PDP the total sum of N 3.14bn from total sales of forms.

From the figure above, not to mention money spent in electioneering and actual voting process, one question begging for answer is, what becomes of a person of integrity without financial muscles who had served well and want to serve his/her people in a higher capacities or a visionary youth with the capacity and necessary exposure to lead his/her people?

To further show their unwillingness to adhere to the rule of law, political parties like PDP are already going against the amended electoral act No 6, 2017, which stipulates not more than N10 million for presidential aspirants and the age reduction to 35 (the recently signed NTYTR Bill), as they charge N12 million for presidential aspirants and 40 years as the age for governorship and senatorial aspirants. Even though none of these is in the condition for qualification as stipulated in section 65, 106, 131 of the 1999 Constitution of the Federal Republic of Nigeria as amended.

This brings us to another mind reverberating question of what becomes the faith of a young man or woman who is not too young to run for an elective position, with mental capacity and integrity to lead but no money to throw within the party and to the electorates?

Let us not forget that even (the incumbent president) President Muhammadu Buhari had to borrow money to buy his form. Will you not like to borrow money to political aspirants and expect a good return on your money after the elections?

The system will only legalize god-fatherism, as those with financial muscles could easily pick up the good heads from among the young ones and exploit them to their own advantage by giving them the necessary supports, especially financially and thereafter dictate what to be done with the position occupied as a result of their supports. How will the good guy/lady then do all the good things he/she has in mind when he gets to power, haven seen and deeply convinced that the god father only cares about remaining relevant by exploiting the masses? How will the Not Too Young To Run achieve its aim? Or will it not give the corrupt politicians the opportunity to field their children and loyal family members who are ready and willing to dance to the tone of their benefactor? This is another side of the coin giving so much concern to the youths.

The electorates on the other hand, who are the recipients and major victims of this social injustice are not helping the matter. The mentality that the time of politics is another season of cheap money making opportunity just like their cashew and other cash crops season, is very worrisome. They would not mind accepting a popular armed robber or kidnapper or even the regular fetish, heartless, careless, conscienceless, cruellest political monsters for the sake of 'making money' from them at that moment without giving a thought to the good four years the person would spend in office lording over them like a slave master. The so called money making could be in a form of car for the top leaders,

bike for the ward leaders, rice and salt for the women that do the major voting and one or two thousand Naira to the able youths they use for campaigns and the actual voting.

Then they win and disappeared to Abuja or the State Capitals to come back again after over three years with nothing to show as dividends of democracy for the people. And the people would still toll the path of backwardness, forgetting history to transact same business that have ruined their communities, brought crisis and untold hardship on their people. Medical facilities dilapidated, accidents here and there as a result of bad roads, no light to brighten the dark corners at night, small scale businesses falling apart daily for lack of power supply and to make it worse, is the lack of access to information to enable the people see and hear of the large sum of money been collected as monthly pay and allowances via the television and radio, as most of them have televisions they have not switched on for the past two years, due to lack of power supply, despite all the monthly allocations, shared excess crude amount, bailout funds, huge constituency project sum and other illegal means of payment like bribery of the legislators by the executive, industry, etc. Who is losing in all of these? The masses.

Change is not a thing of the mouth but a decisive and collective efforts by the people to sacrifice for what they believe in, especially what is more profitable as no one will ever wish a change from good to bad. It does not make sense any more to keep engaging in this political trade of birth right and becoming worse after all. Let us take money out of our electoral process by embracing those with the mental capacity, morality and integrity to lead us and shun those who treat us like slave masters. They would not come to us and will not welcome us if we come to them, but rode on our backs to get to their various offices. If we continue this way, then we are not different from those taken to Libya and other countries for exploitation. Why should we allow that in a country that belongs to all of us? In a country that our heroes past fought to keep for our good, as good and loving fathers who leave inheritance for their children? Where is our sense of patriotism? Why must we sell our children and grandchildren into slavery in our own land and time?

Are you happy that the roads are bad, the communities are in darkness, the hospital are dilapidated and our people are dying of little sicknesses and diseases, while they keep flying abroad to treat headache? Are you happy that your children and even nieces and nephews are jobless? Or do you believe in the lies that Nigeria has no money? All these problems are man-made and are still with us because you and I sell our votes to elect people who have no business being in position of leadership. But we can still get it right as 2019 is fast approaching.

Watch them as they come in long convoys coming to pay you or your community a visit, soliciting for your supports with fat envelopes or with rice as usual, after which they would not pick your calls anymore. Watch them come with their sugar coated lips asking you to forsake those who have been helping the communities in their own little way and follow them because they have come with money. C'mon even little children knows the difference between red and green colour currency or between

the regular uncle and the uncle that comes once in 4 years.

It is time to reject them and their money in order to move Nigeria forward. You don't need everybody on the same page with you to start doing the right thing. You and your house hold should start it. Make it really look like the bad thing it is – vote and conscience sales. Do not praise or envy those plunging us into this terrible conditions. Even the person buying your rights, knows those with integrity and the good people around still appreciate and value it. If not for you, it may work for your children. For every man dies and leave something behind – good or evil deeds. The question then is, what are you leaving behind and what should posterity remember you for? The answer and of course the way forward lies in your deeds and humanity which can never be bought or sold.

There is also every need to make public offices less attractive by advocating for policies that brings about reduction in the remuneration of political office holders across board. This would reduce do or die mentality of our politicians and make them engage in other productive and profitable enterprises rather than turning politics into wealth harvesting ventures.

And lastly, why sticking with political parties that encourage corruption and stealing by the reason of the high cost of their forms, monetized primary elections, etc? Almost all Nigerian political parties have no ideology other than wresting powers and being in charge. We have moved from voting for political parties to voting for candidates. If you are still voting for political parties, then you need value reorientation and a change of mind set. Why should one spend millions just to get a form when I can get the same form at a little or no cost in another party? The popularity of our major political parties today is because of our mentality of sticking to where the crowd is and for greed too. Not because they are the best. But you will be amazed to know that with the right candidate, any party can win. It has happened before and still happening. Those expensive political parties are a major part of our national quagmires and in fact, the architects.

And most importantly, parties are built over time and known for something – ideology. Coalition is another way we can turn the table around, as teaming youth population are coming up from every angles, vying for various political offices. Come together and form a viable and winning opposition with the aim of forming the most democratic government Nigeria could ever have. You don't need to be alone if you can't win alone. If you can't beat them, don't join them. Go look for more people to help you beat them or make sure you are not beaten. Money politics is evil. Money politics is modern slavery. Strive continuously to bequeath a better society for posterity to look back and bless rather than curse you. Thank you and God bless you all.

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