

## THE KAMPALA DECLARATION ON PRISON CONDITIONS IN AFRICA<sup>1</sup>

*Between 19-21 September 1996, 133 delegates from 47 countries, including 40 African countries, met in Kampala, Uganda. The President of the African Commission on Human and Peoples' Rights, Ministers of State, Prison Commissioners, Judges and international, regional and national non-governmental organisations concerned with prison conditions all worked together to find common solutions to the problems facing African prisons. The three days of intensive deliberations produced **The Kampala Declaration on Prison Conditions in Africa** which was adopted by consensus at the closure of the conference.*

### PRISON CONDITIONS

Considering that in many countries in Africa the level of overcrowding in prisons is inhuman, that there is a lack of hygiene, insufficient or poor food, difficult access to medical care, a lack of physical activities or education, as well as an inability to maintain family ties,

Bearing in mind that any person who is denied freedom has a right to human dignity,

Bearing in mind that the universal norms on human rights place an absolute prohibition on torture of any description,

Bearing in mind that some groups of prisoners, including juveniles, women, the old, the mentally and physically ill, are especially vulnerable and require particular attention,

Bearing in mind that juveniles must be separated from adult prisoners and that they must be treated in a manner appropriate to their age,

Remembering the importance of proper treatment for female detainees and the need to recognise their special needs,

*The participants at the International Seminar on Prison Conditions in Africa, held in Kampala from 19 to 21 September 1996, recommend :*

1. that the human rights of prisoners should be safeguarded at all times and that non-governmental agencies should have a special role in this respect, that is recognised and supported by the authorities,
2. that prisoners should retain all rights which are not expressly taken away by the fact of their detention,
3. that prisoners should have living conditions which are compatible with human dignity,
4. that conditions in which prisoners are held and the prison regulations should not aggravate the suffering already caused by the loss of liberty,
5. that the detrimental effects of imprisonment should be minimised so that prisoners do not lose their self respect and sense of personal responsibility,
6. that prisoners should be given the opportunity to maintain and develop links with their families and the outside world, and in particular be allowed access to lawyers and accredited para-legals, doctors and religious visitors,
7. that prisoners should be given access to education and skills training in order to make it easier for them to reintegrate into society after their release,
8. that special attention should be paid to vulnerable prisoners and that non-governmental organisations should be supported in their work with these prisoners,
9. that all the norms of the United Nations and the African Charter on Human and People's Rights on the treatment of prisoners should be incorporated into national legislation in order to protect the human rights of prisoners,

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<sup>1</sup> Adopted at the Kampala Seminar on prison conditions in Africa, September 1996

10. that the Organisation of African Unity and its member states should take steps to ensure that prisoners are detained in the minimum conditions of security necessary for public safety.

### **REMAND PRISONERS**

Considering that in most prisons in Africa a great proportion of prisoners are awaiting trial, sometimes for several years,

Considering that for this reason the procedures and policies adopted by the police, the prosecuting authorities and the judiciary can significantly influence prison overcrowding,

*The participants at the International Seminar on Prison Conditions in Africa, held in Kampala from 19 to 21 September 1996 recommend:*

1. that the police, the prosecuting authorities and the judiciary should be aware of the problems caused by prison overcrowding and should join the prison administration in seeking solutions to reduce this
2. that judicial investigations and proceedings should ensure that prisoners are kept in remand detention for the shortest possible period, avoiding, for example, continual remands in custody by the court,
3. that there should be a system for regular review of the time detainees spend on remand.

### **PRISON STAFF**

Considering that any improvement in conditions for prisoners will be dependent on staff having a pride in their work and a proper level of competence,

Bearing in mind that this will only happen if staff are properly trained,

*The participants at the International Seminar on Prison Conditions in Africa held in Kampala from 19 to 21 September 1996 recommend the following:*

1. that there should be a proper career structure for prison staff,
2. that all prison personnel should be linked to one government ministry and that there should be a clear line of command between central prison administration and the staff in prisons,
3. that the State should provide sufficient material and financial resources for staff to carry out their work properly,
4. that in each country there should be an appropriate training programme for prison staff to which UNAFRI should be invited to contribute
5. that there should be a national or sub-regional institution to deliver this training programme,
6. that the penitentiary administration should be directly involved in the recruitment of prison staff.

### **ALTERNATIVE SENTENCING**

Noting that in an attempt to reduce prison overcrowding, some countries have been trying to find a solution through amnesties, pardons or by building new prisons,

Considering that overcrowding causes a variety of problems including difficulties for overworked staff,

Taking into account the limited effectiveness of imprisonment, especially for those serving short sentences, and the cost of imprisonment to the whole of society,

Considering the growing interest in African countries in measures which replace custodial sentences, especially in the light of human rights principles,

Considering that community service and other non-custodial measures are innovative alternatives to imprisonment and that there are promising developments in Africa in this regard,

Considering that compensation for damage done is an important element of non-custodial sentences,

Considering that legislation can be introduced to ensure that community service and other non-custodial measures will be imposed as an alternative to imprisonment,

*The participants at the International Seminar on Prison Conditions in Africa held in Kampala from 19 to 21 September 1996 recommend the following:*

1. that petty offences should be dealt with according to customary practice, provided this meets human rights requirements and that those involved so agree,
2. that whenever possible petty offences should be dealt with by mediation and should be resolved between the parties involved without recourse to the criminal justice system,
3. that the principle of civil reparation or financial recompense should be applied, taking account of the financial capability of the offender or of his or her parents,
4. that the work done by the offender should if possible recompense the victim,
5. that community service and other non-custodial measures should if possible be preferred to imprisonment,
6. that there should be a study of the feasibility of adapting successful African models of non-custodial measures and applying them in countries where they are not yet being used,
7. that the public should be educated about the objectives of these alternatives and how they work.

#### **AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS**

Considering that the African Commission on Human and Peoples' Rights has the mandate to ensure the promotion and the protection of human and people's rights in Africa,

Considering that the Commission has shown on many occasions its special concern on the subject of poor prison conditions in Africa and that it has adopted special resolutions and decisions on this question previously,

*The participants at the International Seminar on Prison Conditions in Africa, held in Kampala, Uganda, from 19 to 21 September 1996, recommend that the African Commission of Human and Peoples' Rights*

1. should continue to attach priority to the improvement of prison conditions throughout Africa,
2. should nominate a Special Rapporteur on Prisons in Africa as soon as possible,
3. should make the member states aware of the recommendations contained in this Declaration and publicise United Nations and African norms and standards on imprisonment,
4. should co-operate with non-governmental organisations and other qualified institutions in order to ensure that the recommendations of this Declaration are implemented in all the member states.

**PLAN OF ACTION**  
**FOR THE KAMPALA DECLARATION ON PRISON CONDITIONS IN AFRICA**

Considering that the All-Africa Seminar held in Kampala, Uganda, 19-21 September 1996, adopted a Declaration on prison conditions in Africa, hereafter the Kampala Declaration, which constitutes a historical document of crucial importance,

Considering the appointment of the Special Rapporteur on Prisons and Conditions of Detention in Africa, as was originally recommended in the Kampala Declaration,

Noting with appreciation that the Kampala Declaration's importance was recognised when it was noted in, and annexed to, a resolution on *International co-operation for the improvement of prison conditions in developing countries* by the United Nations Commission on Crime Prevention and Criminal Justice, at its sixth session (Vienna, May 1997),

The Plan of Action set out below is recommended as a means of implementing the Kampala Declaration. It is addressed to governments and institutions as well as to NGO and associations, and meant to be a source of inspiration for concrete actions.

**KAMPALA PLAN OF ACTION**

1/ Prisons in Africa are over-crowded and inadequately resourced. The conditions for prisoners are inhuman; the conditions for staff are intolerable. This over-use of imprisonment does not serve the interests of justice, nor does it protect the public, nor is it a good use of scarce public resources. Imprisonment should only be imposed by the court when there is no other appropriate sentence. People should be sent to prison only when they have committed very serious offences or when the protection of the public requires it. A concerted response from African nations and the international community is required to reduce the use of imprisonment throughout the continent and ensure that international standards and norms for the treatment of prisoners are adhered to.

2/ Prisons in Africa should be considered in the context of economic development, social and cultural values and social change. Emphasis should be placed on providing education, skills-based training and a work programme that is in the interests of the rehabilitation of the offender while incorporating elements of self-sufficiency and sustainability of both the prison institutions and the detainees as a community.

3/ In many developing countries, there is concern about an increased rate of crime. An understandable response is to send more people to prison, resulting in increased prison populations. This response has little effect on rates of crime. The majority of detainees are in pre-trial detention for petty crimes or serving short terms of imprisonment. Alternative sentences to imprisonment need to be developed and promoted in suitable cases. Pre-trial detainees should have access to bail by right, and their numbers should be kept as low as possible. Courts need to speed up the trial process. Informal avenues that do not include the courts — such as diversion, mediation and reconciliation — should be explored.

4/ The prison exists to protect society from those who commit serious crimes. In order to achieve this aim, the prison needs to be provided with adequate resources, the important role of prison staff recognised and standards and norms respected. The success of a prison system is measured by the security it offers society and degree to which the treatment it provides rehabilitates offenders. It should only be used as a last resort, while alternatives and re-socialisation should be, as much as possible, preferred to imprisonment.

5/ In light of these general considerations, the following recommendations are made as essential elements of an effective Plan of Action for consideration by governments and civil society groups in Africa.

a) Governments should review penal policy in light of the Kampala Declaration and call on other national and international agencies (governmental and non-governmental) to assist them in this task;

- b) Interested bodies or agencies should co-operate to the fullest extent possible to assist the review process and provide technical assistance and material support;
- c) Research into non-custodial sentencing options, including community service, should be undertaken and broadly disseminated to assist governments in determining and implementing penal policy. Continued attention should be given to ways of reducing prison populations in conformity with international standards and norms;
- d) Urgent and concrete measures should be adopted that improve conditions for vulnerable groups in prisons and other places of detention; such as: juveniles, women, mothers and babies, the elderly, terminally ill and very sick, the mentally ill, the disabled, foreign nationals. Procedures that take into account their special needs and adequate treatment during their arrest, trial and detention, must be applied to these groups;
- e) Many prisoners require only minimal levels of security and should be accommodated in open institutions. Wherever possible, prisoners should be encouraged to involve themselves in educational and productive activities with the support of staff.
- f) International standards and norms on the treatment of prisoners should be incorporated in national legislation. These instruments — including the Kampala Declaration — should be extensively taught to prison staff and made widely available to prisoners, the media and members of the public;
- g) Prison staff should be recognised for the important work they carry out and their role as public servants, and properly trained. Members of the public should be sensitised to prisons and the conditions of staff and prisoners. Public debate on penal policy and reform should be encouraged through the media. Visits to prisons by interest groups should also be welcomed and encouraged;
- h) The role that NGO have to play in prisons is important and should be recognised by all governments. They should have easy access to places of detention and their involvement should be encouraged;
- i) Channels of communication should be set up with the Special Rapporteur (SR) on Prisons and Conditions of detention in Africa so that the SR can be assisted and supported in his important task;
- j) The African Commission on Human and Peoples' Rights should be invited to give priority to prison conditions in Africa, in accordance with the African Charter and other international instruments, and to give full support and assistance to the work of the Special Rapporteur. The Commission should also be invited to promote the Kampala Declaration amongst member States;
- k) Regional seminars should be convened to discuss regional initiatives and disseminate the findings and proceedings of these seminars throughout the continent, and enhance bilateral, multilateral and international co-operation, assistance and networking;
- l) A second pan-African conference on Prison Conditions in Africa should be held in 1999/2000, with the aim of assessing progress made and setting up new objectives.

6/ African governments are urged to implement this Plan of Action as the collective endeavour of the African community to deal with the urgent crisis in the continent's prisons.

7/ The Special Rapporteur should be invited to incorporate this Plan of Action in his work program, and disseminate it to governments and NGO, as well as the media and the public at large.