

**12th UN Congress on Crime Prevention and Criminal Justice
Committee II
4th & 5th Meetings (AM & PM)**

**Special Rapporteur Paints Harrowing Picture of Prison Conditions
as Experts Call for Measures to Ensure Respect for Human Rights**

Some 10 Million Detained Persons Denied Personal Liberties, Workshop Told as United
Nations Crime Congress Continues

SALVADOR, 15 April (UN Information Service) – Decrying the “appalling” circumstances believed to affect roughly 10 million detainees worldwide, the United Nations Special Rapporteur on Torture today described massive differences in the treatment of prisoners, and called, alongside other experts, for stiffer measures to improve prison conditions and ensure full respect for basic human rights standards, as the Twelfth United Nations Congress on Crime Prevention and Criminal Justice continued in Salvador, Brazil.

Delivering a keynote address to a “Workshop on the Survey of United Nations and Other Best Practices in the Treatment of Prisoners in the Criminal Justice System”, Special Rapporteur Manfred Nowak told participants in Committee II, one of two subsidiary bodies of the Congress, that he had recommended that the Human Rights Council consider drafting a United Nations convention on the rights of detainees. “In light of some 10 million human beings deprived of personal liberty and their alarming conditions of detention, the need for a legally binding and enforceable human rights instrument is pressing,” he said.

Mr. Nowak told the workshop, moderated by Minister Antonio Cezar Peluso of Brazil’s Supreme Court, that before taking up his function five years ago, he had been unaware of the appalling conditions of detention in most countries. As Special Rapporteur, he had conducted fact-finding missions in 16 countries to assess the extent of torture, inspecting punishment cells, conditions on death row and the situation of vulnerable people, among others.

Of the millions detained under degrading conditions, he said many might be innocent victims of corrupt and dysfunctional criminal justice systems. They often belonged to the groups facing the greatest discrimination in society, such as the poor, minorities, drug addicts or aliens. Moreover, strict prison hierarchies meant that those at the bottom -- children, the elderly, persons with disabilities and diseases, gays, lesbians, bisexuals and transgender persons -- suffered “double or triple discrimination”.

He said the Standard Minimum Rules for the Treatment of Prisoners, adopted by the Fifth Crime Congress in 1975, was among several soft law instruments developed by the United Nations Commission on Crime Prevention that contained provisions protecting the human rights and personal liberties of detainees. However, few States upheld their obligations under such agreements; as soon as detainees were behind bars, they lost most of their human rights and seemed to be forgotten by the outside world.

Mr. Nowak said that, besides corporal punishment and other forms of violence, the deprivation of food, water, clothing and health care had caused him concern, as had violations of the right to the minimum of space, hygiene, privacy and security necessary for a humane and dignified existence. In a visit to Uruguay’s infamous Libertad Prison, he had found hundreds of convicts and pretrial detainees to have spent months or even years in tiny metal boxes in which summer temperatures could reach 60° Celsius. Detainees drank water from the toilets and defecated in plastic bags which they later threw out of their cells. “The noise and smell were unbearable and must be regarded as inhuman, even for the prison guards working there,” he said. “Prisoners had to cut themselves in order to get attention and medical assistance.”

In many post-Soviet countries, including Georgia, Republic of Moldova and Kazakhstan, long-term prisoners were locked up most of the time, sometimes in solitary confinement, he continued. In Mongolia, some prisoners were held in solitary confinement for up to 30 years, and some on death row were kept shackled in dark cells for months, and could only be visited by one family member before their execution. The Special Rapporteur also discussed inhuman conditions he had encountered in China, Jordan, Sri Lanka and others countries.

Indonesia's representative, in a brief period of interaction between delegates and panellists, raised objections to the Special Rapporteur's allegation that prisoners in that country paid a daily fee for "accommodation", but Mr. Nowak stood by his characterization of such payments as "corruption fees".

However, he pointed out that some of his visits had yielded examples of good practice, citing Denmark and Greenland, where prisons followed the "principle of normalization". Prisoners were free to walk around, engage in meaningful work and education programmes, and to participate in sports and other recreational activities so as to feel the least restriction as possible on their freedom and privacy. In certain Danish prisons, men and women might even live together, find partners and marry, he said, noting that normalization served to promote rehabilitation and re-socialization. It also helped reduce the risk of recidivism, satisfying the rehabilitative aim of imprisonment, in accordance with the International Covenant on Civil and Political Rights.

Mr. Nowak went on to state that a good indicator of a well-functioning prison was a low ratio of pretrial detainees to convicts. However, something was wrong if 50 per cent or more were in pretrial detention, for example, under police custody rather than through court conviction, he said, noting that in Nigeria, where almost 70 per cent of prisoners were in pretrial detention, he had been driven to recommend the immediate release of 20,000 people since most had already exceeded the maximum penalty possible in relation to the crime they were suspected of committing.

"In far too many countries, pretrial detention [...] serves as a type of preliminary punishment for all criminal suspects who lack sufficient money to bribe corrupt police or prison officials, judges and prosecutors," he said, explaining that high rates of pretrial detention indicated that responsibility for sentencing had shifted from judges to prosecutors and police, or that release on bail was misunderstood by judges, prosecutors and prison staff as an incentive for corruption.

Earlier, Mr. Nowak had told delegates that his terms of reference provided for unannounced visits and unsupervised interviews with detainees. If those allowances were not made, "I unfortunately have to deny their respective invitations", he said, adding that such had been the case in the Russian Federation and the United States. Responding as the workshop neared its conclusion, the representative of the Russian Federation explained that federal laws were fully implemented in Russian prisons, including those in Chechnya, and that visits were carried out by the European Commission on the Prevention of Torture.

Other panellists echoing Mr. Nowak's call to strengthen human rights norms included Latin American criminal justice experts involved in an initiative to revise and update the Standard Minimum Rules for the Treatment of Prisoners. Edmundo Alberto Branco de Oliveira of Brazil, that group's General Coordinator, underscored the importance of strengthening the Standards in the face of the overcrowding "crisis" in the region's prisons. The Rules had not been updated since 1955, he said, stressing the need to reorient prisons towards safeguarding human rights.

Eugenio Raul Zaffaroni, Minister of Argentina's Supreme Court of Justice, explained further that the region's prison population was made up of young, poorly educated people from disadvantaged groups who lacked job opportunities. Overcrowding in prisons meant that offenders had to be held in police cells, which, in turn, meant that police could not make arrests for lack of jail space. And yet, without resources, it would be difficult to ease the overcrowding problem, which, in turn, made it difficult to comply with the Minimum Standards.

Victor Moreno Catena, Secretary-General of the Conference of Ministers of Justice of Latin American Countries, said the body was expected to adopt the San Jose Declaration when it met in October, and would consider proposals to update the Standards Minimum Rules for the Treatment of Prisoners at the same time. The ministers were prepared to lead internal reforms by fostering greater involvement by ministers of education, for example.

Kathleen MacDonald, Executive Director of Canada's International Centre for Criminal Law Reform and Criminal Justice Policy, said the organization provided technical assistance to help authorities improve local prison standards. Its "International Prison Policy Development Instrument",

a 400-page manual, had been translated into Russian and was currently being used to help raise the standard of prison personnel training to meet international standards. However, Kauko Aromaa, Director of the European Institute for Crime Prevention and Control, admitted that full compliance was still a long way off, a major challenge to the implementation of international standards being the “absence of economic and social conditions that make it possible to carry them out”, rather than ignorance of international principles or a wish to violate them.

For its part, the United Nations had its own nascent prison-support programme through its peacekeeping missions, said Richard Kuuire, a Corrections Adviser with the Office of the Rule of Law and Security Institutions in the United Nations Department of Peacekeeping Operations. The United Nations Development Programme (UNDP) managed a multi-donor trust fund for prison support, with major support from the Canadian International Centre for Criminal Law Reform. In addition, there was currently a partnership between the Peacekeeping Department, UNDP and the United Nations Office of Drugs and Crime (UNODC) to improve prison conditions in Southern Sudan, he said, emphasizing the importance of donor funding for such support programmes, and the need to court the media so as to gain more support among donor nations and the public at large.

Some panellists focused their presentations on turning prisons from places of containment into havens for rehabilitation, as envisioned in various human rights guidelines. Ioana Naivaaluraa, Prison Commissioner of Fiji, said that, due to small but significant changes in the way in which prisons were administered, the Fijian Government was able to keep the number of prisoners below 1,000 and two prisons had even been shut down. Such simple changes included changing the uniforms worn by guards, whose very visible stripes were seen as “too authoritative”. He said Singapore had support efforts to involve local community members in the reintegration of offenders upon release, and to introduce an element of spirituality and health into rehabilitation programmes. Other innovative practices included commercial ventures with former offenders, to boost their business skills, and training them to become referees in Fiji’s beloved national sport -- rugby.

Shawn Tupper, Canada’s Assistant Deputy Minister for Public Safety, stressed the importance of community oversight, citing a provision of the International Convention on Civil and Political Rights which made social rehabilitation a major aim of the prison system. He said research from hundreds of evaluations of treatment programmes in Canada had proven that it could work, though it was not always equally effective. It was important to recognize that offenders’ needs were not always related to criminal behaviour but had their roots in substance abuse, joblessness and bad family relationships. Cognitive behavioural methods of intervention, focusing on how thoughts affected behaviour, had been seen to reduce recidivism rates by up to 35 per cent, he said, adding that supervising officers also needed training in adherence to international principles.

Deon Van Zyl, an Inspecting Judge from South Africa, said prison services in his country had been in a “bad state” before the 1994 democratic transition. The new Constitution, which had entered into force in 1996, upheld the rights of detained people to conditions consistent with human dignity, including adequate accommodation, nutrition, reading material and medical treatment. He said the old Prisons Act had been updated in 1998, becoming the Correctional Services Act, which provided for independent reports to Parliament and the Government by the independent Inspectorate of which he was the head.

He admitted, however, that South Africa still had “a long way to go”, despite the publication of a white paper calling for prison authorities to focus on rehabilitation and reintegration. The country had 238 prisons, holding 160,000 inmates, of whom 50,000 were detainees awaiting trial. The Inspectorate must oversee those prisons with a limited budget and a staff of just over 30, he said, adding that the system worked well enough that he was kept well-informed -- “aware of every death”.

Mario Coriolano, Vice-Chair of the United Nations Sub-Committee on the Prevention of Torture, said that the Optional Protocol to the Convention on the Prevention of Torture provided for periodic visits by independent bodies in order to help guarantee the proper treatment of prisoners. So far 52 States parties had ratified it, but only 22 had set up local monitoring mechanisms.

Also reporting on prison conditions in their respective countries were delegates from Morocco, Italy, Angola and Iran.

Fabienne Hariga of UNODC, at the outset of the afternoon session, introduced a workshop on health in prisons by noting that, while the health needs of prison populations, who comprised many drug addicts and sex workers, prison health-care standards and access to medicine, water and quality food was sub-standard in many cases. Tuberculosis was rampant in many prisons, resulting in preventable deaths in various parts of the world. Prison officials were often corrupt and negligent in

attending to the needs of prisoners, while officials often denied the problems, she said, emphasizing that all too often prisoners' right to health was not respected.

Enrique Acin Garcia, Chief of Public Health for the Coordination of Penitentiary Health Systems in Spain, recalled the rampant heroin use and needle-sharing among prisoners at the end of the 1980s, noting that 46 per cent of new inmates had been drug users and one third HIV-positive, making them highly susceptible to tuberculosis and hepatitis C. That percentage had since dropped dramatically thanks to anti-drug-abuse strategies, health education campaigns and the availability of antiretroviral drugs in the 1990s. Disease prevention and control programmes, such as the distribution of condoms, had fallen short, having been implemented later than they should have been, he said, adding that better results in curbing HIV transmissions were still needed. Since 2002, however, the transmission rate had fallen steadily to below 0.08 per cent in 2009.

Martin Edgardo Vazquez Acuna, Judge of Criminal Oral Court No. 1 in Buenos Aires, Argentina, said his country had 9,300 prisoners in federal penitentiaries, including many women and children suffering from HIV/AIDS, tuberculosis and drug addiction. To rectify previously limited coordination between the Public Health and Social Development ministries, the Ministry of Justice, Security and Human Rights had drawn up national strategies to provide better medical care for general health concerns, HIV/AIDS, eye care, maternal health and sex education. Currently, the Public Health Minister was required to ensure the same health-care standards for prisoners as for the general population, he said, stressing that prison doctors were responsible for implementing those standards, in line with the guidelines of the International Committee of the Red Cross, in addition to reporting human rights abuse or negligence.

Vadim Cojocar, Colonel of Justice and General Director of the Department of Penitentiary Institutions in the Republic of Moldova, said that, to counter the high levels of drug use and HIV infection in his country's prisons, the Government had launched a four-pronged approach: detection of HIV infection; distribution of condoms; monitoring of HIV cases; and treatment of infected prisoners. As a result, the number of HIV-positive detainees had fallen from 32 in 2004 to 17 in 2008, he said, adding that, since 2003, drug use was no longer classified as a criminal offence. In 2008, the Government had instituted methadone-substitution exchange programmes in prisons.

Tomris Atabay of UNODC then introduced a workshop on women in prison, which also covered the children of imprisoned mothers. She said that the number of female detainees was rising as women were incarcerated for everything from criminal offences, to drug use, to adultery. In many countries, women could not afford legal representation, she said, noting that once incarcerated, they often received scant attention from prison guards, and faced discrimination.

She screened a UNTV production, *Women and Children behind Bars in Afghanistan*, which showed 90 female inmates living in Badam Bagh, the only women's prison in Kabul, often with their children. Too often, those children had no other relatives to care for them and were shunned by orphanages, forcing them to live in and attend school in jail. Under sharia law, many Afghan women were jailed for so-called moral crimes, such as adultery, running away from home, running off with a boyfriend or refusing to marry men against their wishes, she said, adding that many never received fair trials while some were abandoned by their families.

Palwasha Kakar, Afghanistan's Deputy Minister for Women's Affairs, said Kabul and Herat provinces had separate prisons for women, and two more would be built in the future. The female prison population was rising with 476 women making up the 16,151 prisoners in Afghanistan, she said, noting that half of them had been incarcerated for "moral crimes". More than 250 children were incarcerated with their mothers and they endured poor facilities and limited attention from staff. Among other remedial measures, a prison working group comprising the Government, the United Nations Assistance Mission in Afghanistan (UNAMA), UNODC, non-governmental organizations and other partners met every two weeks to hammer out strategies to address HIV/AIDS, primary health care, vocational training and other concerns of female inmates.

Vitaya Suriyawong, Deputy-General of Thailand's Office of Justice Affairs, said more women in that country were being sent to prisons designed for men, causing many previously unperceived problems. They were called the "forgotten people". In 2008, the Ministry of Justice had launched the "Enhancing Lives of Female Inmates" project to raise international awareness of the urgent need to improve the treatment of female prisoners, with an emphasis on human rights and gender sensitivity. Subsequently, Thailand had developed draft United Nations rules on the treatment of women prisoners and non-custodial measures for women offenders, which it would present to the Congress, he said, urging participants to adopt them.

Speaking next, Maria-Noel Rodriguez of the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), said women should have separate prisons close to their homes and families, with secure facilities that catered to their needs. There was a need to bolster work programmes and parole policies to reduce sentences for good behaviour, and halfway houses to better reintegrate female inmates into society. Good practices in Latin America to improve the lot of female inmates could be replicated elsewhere, she said, citing Uruguay's pilot law under which at least 5 per cent of all public service jobs must be filled by former inmates.

During the session's workshop on children and young people, Colonel Mouin Chehade, of Lebanon's General Security Forces, said his country had significantly reduced the number of juvenile offenders thanks to assistance from UNODC and a 2002 law providing for educational and rehabilitation measures. Lebanon had three juvenile detention centres housing 150 boys and 12 girls. The girls' facility aimed to reintegrate its inmates fully into society, he said, adding that social workers taught them the skills, social development and self-esteem necessary for survival. Girls were rewarded for good behaviour and positive change, and were given a fresh start for a better life.

Committee Secretary Jean Zermatten of the United Nations Committee on the Rights of the Child said that legal penalties should only be imposed on children as a last resort. There must be training to enable judges, police officers, social workers and others to seek alternatives to detention, as well as public awareness campaigns to show that non-custodial penalties did not endanger public security. The number of children detained worldwide had not dropped, he said, calling on the Congress to ensure that it did.

During a subsequent workshop, "Mobilizing resources and awareness-raising: working with the media", Mary Murphy, Policy Director of Penal Reform International, said prison administrations did not adequately inform the public about conditions inside jail, an information vacuum that was easily filled by myth and resulting in many misconceptions about the social, racial and economic profile of prisoners and their crimes. Objective information must be gathered and conveyed so the public could better understand the lot of prisoners and their need for proper treatment, she said, stressing that punishment alone did not create safe local communities.

In the ensuing discussion, Argentina's representative discussed the "terrifying" incarceration rates in Latin America, saying that neoliberal economic policies had filled prisons with people who had simply fallen outside the economic system. However, the region had benefited from UNODC's efforts in the past five years, including its training of local penitentiary staff.

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For further information:

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