

**12th UN Congress on Crime Prevention and Criminal Justice
Committee I
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**Delegates at United Nations Crime Congress Hear Calls for
Overhaul of Criminal Justice Systems to Reduce Prison
Overcrowding**

National Officials Outline Alternative Strategies Aimed at Ensuring Public Safety while
Avoiding Recidivism

SALVADOR, 16 April (UN Information Service) – An overhaul of criminal justice systems in countries from Afghanistan to Zimbabwe was needed to reduce inhumane overcrowding in prisons -- a major cause of recidivism which did nothing to improve public safety, speakers said today as the Twelfth United Nations Congress on Crime Prevention and Criminal Justice continued in Salvador, Brazil.

“This is a humanitarian disaster in many parts of the world,” Rob Allen, Director of the International Centre for Prison Studies at Kings College in London, said this morning during a workshop on strategies and best practices against overcrowding in correctional facilities. “Like any humanitarian disaster there is a need for short-term relief, but it must combine with long-term sustainable solutions.”

Overcrowding existed in rich and poor countries, and in common and civil law jurisdictions alike, Mr. Allen said, recalling that in 2009 it had led to violent protests in France, the deaths by suffocation of two prisoners in Ghana and murder in Venezuela. In Manila, 5,000 inmates were crammed into a jail built for 1,000, he said, adding that overcrowding was particularly acute in post-conflict countries in sub-Saharan Africa, as well as Haiti. In California, judges had ruled that it was a chief impediment to health care, and in South America, courts had issued mandates against it. Overcrowding could lead to suicide, particularly among women and children, and it was a major factor in the transmission of tuberculosis.

He went on to define overcrowding as the lack of sufficient space for prisoners to sleep in safety, for women to be kept apart from men, for separating juveniles from adults and serious offenders from minor offenders. It was difficult to measure because there was no universal agreement on that definition, he said, noting the scarcity of data on standards for adequate space, which varied from one country to another. Even more scarce were statistics on how prisoners perceived overcrowding. “It is one thing to sleep in a very small space; it is quite another to spend 23 hours a day in that space,” he said.

In 2005, he said, the International Committee of the Red Cross (ICRC) had called for a minimum of 3.4 square metres per person, while the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had called for greater space. Prison systems in some countries, such as Ireland, had merely created bunk beds to double cell capacity, while in others the large numbers of pretrial detainees -- often half of all detained persons -- had caused crowding, despite the system not being at full occupancy nationwide, as was the case in the Russian Federation and Cameroon.

Introducing the workshop, Claudia Baroni of the United Nations Office on Drugs and Crime (UNODC) said that more than 9.8 million people were held in penal institutions worldwide. Overcrowded conditions violated their basic rights, undermined the safety of prison staff and the general public, and weakened the ability of prison systems to meet prisoners' basic health-care, food and accommodation needs, as well as their rehabilitation, education, training and recreational activities. Moreover, overcrowding hindered the effective management of prisons, and the ability of

the authorities to address prisoners' social reintegration needs and ensure that their treatment met United Nations norms and standards.

She said the workshop should review good practices and strategies for improving access to justice for the poor and vulnerable, decriminalization, pretrial diversion, restorative justice at all stages and alternatives to imprisonment. It should also assess the impact of such practices on overcrowding. Similarly, Masaki Sasaki, Director of the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, said that simply focusing on the causes of overcrowding was not enough, emphasizing that the workshop must also examine ways in which to expand early-release measures and identify effective programmes to prevent recidivism.

Tapio Lappi-Seppala, Director of Finland's National Research Institute of Legal Policy, said that overcrowding was sometimes caused by inadequate cooperation, loose legal regulations and a lack of political will to seek viable alternatives to pretrial detention. Rigid sentencing systems often forced courts to impose minimum penalties, while high recidivism levels compelled judges to impose stiffer penalties than they would wish, even in cases of minor offences. That was not only cost-ineffective, but also unjustifiable from a humanitarian and social justice standpoint, he said, noting that Governments often claimed a lack of funds to implement such alternatives.

However, such alternatives need not be expensive and they could go a long way towards reducing recidivism, he said. "The problem of prison overcrowding can be solved in ways that increase fairness and justice, save resources and protect the community," he added. "One should not be jailed for being poor." In countries with high rates of recidivism, rehabilitation programmes that worked best outside prisons should be a priority. Alternatives were particularly important for minor offenders, drug addicts and young children, he said, cautioning that prisons should not replace psychiatric hospitals or become safe havens for mentally ill people. A major obstacle to reducing prison populations was public fear that it would result in higher crime levels, he said. However, investing in policies to eliminate social marginalization, as Finland had done since the 1960s and 1970s, actually lowered incarceration rates.

Hans-Jorg Albrecht, Managing Director of the Max-Planck Institute for Foreign and International Criminal Law and Moderator of this morning's workshop, said overcrowding had been on the national and international policy agendas for decades, but prisons and prisoners lacked a strong, influential constituency. Strengthening the rights of inmates by empowering non-governmental organizations assisting them could help alleviate the problem, he said, pointing out that tackling overcrowding by building more prisons, as the United States had done, was expensive while potentially having the reverse effect of causing greater overcrowding in the long-term and reinforcing reliance on imprisonment and deprivation of liberty. Broad and indiscriminate use of long sentences, including life terms, did not improve public safety, he stressed. On the contrary, it exacerbated crime.

Agreeing with that assessment, Elias Carranza, Director of the Latin American Institute of the United Nations for the Prevention of Crime and Treatment of Delinquents, added that no country in that region had the economic capacity to solve overcrowding simply by constructing new jails. Incarceration rates had increased since the 1990s, doubling and even tripling in some countries, he said, noting that in recent years, Costa Rica and the Dominican Republic had invested in the training of prison personnel, better prison infrastructure and more humane conditions for prisoners. Those countries had rejected offers to build private prisons, focusing instead on improving and streamlining the existing State systems modelled on those in Europe and the United States. That strategy had proven effective and had been commended by UNODC, he said, adding that such systems should be replicated elsewhere.

Masamba Sita, Director of the United Nations African Institute of Crime and for the Treatment of Criminal Offenders, discussed the relationship between crime and development, saying it was a double-edged sword: whereas crime often led to underdevelopment, development could in fact lead to crime. With the exception of Libya, Seychelles and Mauritius, African countries that rated high on the United Nations Development Programme (UNDP) Human Development Index tended to have less prison overcrowding than those rating low, he said, explaining that overcrowding in the region resulted mainly from long illegal detentions caused by delays in beginning trials and in waiting for appeal verdicts.

The workshop then held the first of three panel discussions. During the first, titled "Strategies for reduction of prison populations through diversion, informal and restorative justice and alternatives to pre-trial detention", criminal justice officials from several countries shed light on their respective national strategies.

Kittipong Kittayarak, Permanent Secretary in Thailand's Ministry of Justice, outlined his country's focus on compulsory treatment for drug users -- who accounted for the highest percentage of inmates -- through drug diversion schemes, restorative justice interventions for juvenile offenders and enhancing the scope of probation. That approach had helped reduce overcrowding, he said.

Elinor Wanyama Chemonges, National Coordinator of Paralegal Advisory Services at Uganda's Foundation for Human Rights Initiative, said the Government used alternative dispute resolution mechanisms such as traditional justice systems, and local council courts. The Directorate of Public Prosecutions used mediation and reconciliation to weed out unfounded cases, while the Family and Child Protection Unit of the national police force handled domestic disputes.

Toshihiro Kawaide, professor of criminal procedure at the University of Tokyo's Graduate School for Law and Politics, said that, in order to reduce and control prison populations, Japan used limited pre-indictment detention periods, and mandatory and discretionary bail, as well as speedy trial proceedings for minor offences, in addition to discretionary measures such as the suspension of 40 per cent of prosecutions for non-traffic Penal Code offences.

Clifford Msiska, National Director of Malawi's Paralegal Advisory Service Institute, underscored the need to provide practical, affordable and effective legal aid services, noting that no country had "got it right". Judiciaries had collapsed in many countries while pro bono services often had hidden costs and were riddled with problems. The 1996 Pan-African Seminar on Prison Conditions in Africa had revealed that on-trial prisoners accounted for up to 80 per cent of the total prison population in some countries in the region due to the dearth of legal aid services. Poor people, particular the ignorant and illiterate, needed advice, assistance, mediation and free or affordable referral services. "We must empower prisoners so they can protect themselves," he stressed, adding that Malawi had made headway by introducing daily paralegal aid clinics, keeping juvenile cases out of the prison system through alternatives measures, and improving coordination among various actors in the criminal justice system, among other measures.

David Carruthers, former Chief Judge of the District Court of New Zealand and current Chairperson of that country's Parole Board, said restorative justice was increasingly being used to settle disputes in the education system and the workplace. Overwhelmingly, research showed that it helped significantly in reducing imprisonment and recidivism. In 1989, New Zealand had introduced restorative justice for people in prison and on parole, and the number of custodial institutions had dropped from eight to four. Recent restorative methods in schools had caused expulsion and exclusion rates to decline by 30 per cent.

Chairing the workshop was A.M.J. Sadiq, Sri Lanka's Ambassador to Brazil.

During the ensuing discussion, the representatives of Italy, Morocco, Russian Federation, Azerbaijan, Brazil and the Dominican Republic detailed their respective national experiences in reducing overcrowding.

Representatives of the Friends World Committee and Penal Reform International made interventions.

Moderating the afternoon panel discussion, "Strategies for the reduction of prison populations at the sentencing and post-sentencing stages" Yvon Dandurand, Senior Associate at Canada's International Centre for Criminal Law Reform and Criminal Justice Policy, said that initiatives on that score had focused so far on improving the efficiency of sentencing processes so as to reduce delays. Others centred on providing judges with sentencing guidelines that would not compromise their independence, and the information they needed to apply community-based alternative sentences more frequently. Since ensuring that ex-offenders did not re-offend was a major way to reduce the prison population, it was important to consider how they should be supervised after their release. That question was especially pertinent to offenders on early release or parole.

Drawing on her country's experience, panellist Ela Wiecko Volkmer de Castilho of Brazil's Federal Public Prosecution Service, National Council on Criminal and Penitentiary Policy, discussed the importance of re-educating and re-socializing ex-offenders. She said alternative measures had become popular in the late 1980s, but had not reduced the prison population, which had grown at an annual rate of 5 per cent from 2003 to 2009. The rate among women prisoners alone had risen 10 per cent, she said, adding that the common wisdom in Brazil held that alternative sentencing was not appropriate for violent offenders, and that prison was the only effective response to crimes such as robbery, theft and drug trafficking. In order for alternative sentencing to take hold, she suggested,

the public should be persuaded that restorative justice was important, not only for minor crimes, but for all types of offences.

Maria Noel Rodriguez, Director of the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders, recalled that participants at the regional preparatory meeting for the Congress had discussed the need for an instrument to control overcrowding, whereby an enforceable ceiling would be set on the number of inmates per prison. Under the plan, a specialized body would vet potential parolees and, in partnership with social welfare officials, facilitate their re-entry into society and help them find accommodation, among other things. Individual plans would be drawn up for each parolee, who would receive assistance in the form of food coupons, transport allowances, free legal assistance, job training and other services.

Soh Wai Wah, Singapore's Director of Prisons, said his country had a strong focus on rehabilitating offenders. Singapore had enjoyed low recidivism rates in 2007, which had coincided with a major change in approach, whereby all prison officers became "captains" in the lives of offenders under their charge, taking on the role of personal supervisor. In the treatment phase, the prisoners were provided with skills training, therapy and other rehabilitative services, in addition to accommodation, employment and financial assistance just before release. Certain prisoners were even allowed to serve the final phase of their sentences at home, under electronic monitoring. After release, they received attention from a care network comprising prison officers, the Welfare Ministry, an association of ex-prisoners and after-care volunteers, she said.

Christine Glenn, a Parole Commissioner and Immigration Judge from Northern Ireland, challenged the view, often held by politicians, the public, media and victims, of parole as a "soft" option or "reward for keeping your cell tidy". It was a punitive sentence served in the community, subject to strictures, and undertaken only after a thorough risk assessment. In such cases, public protection was a prime concern, and protective factors, such as non-contact with potential victims, could be put in place. However, even with protective factors in place, communities might not be able to manage the just-released offender. For that reason, it was also important to reduce triggers and opportunities for re-offending by employing "avoidance tactics" for drug abusers, for example.

Mr. Lappi-Seppälä, moderating the third panel discussion, "Strategies for securing support for reduction of prison populations", emphasize the importance of garnering political support and political will to enact reforms; gaining the acceptance of the judiciary to ensure proper application; winning the support of local communities; and keeping all stakeholders informed about basic facts on crime, criminal justice and the effectiveness of punishment.

Mr. Kittipong, Permanent Secretary in Thailand's Ministry of Justice, who was responsible for the national alternative sentencing programme during his country's worst overcrowding crisis, stressed the need to raise the profile of probation work, which was the least known criminal justice agency in Thailand. The probation office had become the lead actor in a country-wide campaign against drunk-driving, after which the agency's approval rating had risen to 91 per cent. He said that the use of volunteer officers had allowed ordinary citizens to play an active part in the probation process, which helped to foster the reintegration of offenders into the community. Thailand was currently implementing a pilot project to help expand the volunteers' responsibility to include the rehabilitation of drug addicts, and had also passed several laws relating to restorative justice.

Mr. Soh added that an already successful example of community involvement in restorative justice was Singapore's Yellow Ribbon Project, which was a collaborative effort between the prison system and the community to reduce recidivism. Upon release from prison, ex-offenders might find themselves ostracized by society and relegated to a "social prison", which must be "unlocked" if the individual was to reintegrate successfully. The programme took its name from the song Tie a Yellow Ribbon 'Round the Old Oak Tree, in which a newly released prisoner yearns for forgiveness, he said.

Mr. Sita of the United Nation African Institute for the Prevention of Crime and Treatment of Offenders said the concept of restorative justice had long been in practice, but needed to be better documented and folded into mainstream criminal justice systems. He also underscored the importance of effective involvement by relatives, friends and neighbours in reaching a restorative outcome to imprisonment, while stressing also the need to shift from the punitive-retributive approach to a compensatory, conciliatory and therapeutic approach to incarceration.

Ms. Glenn added that, in order to win community support for the use of parole and in-community sentencing, it was useful for bodies such as parole boards to conduct outreach to judges, politicians, victims and other people of influence, in part to demystify what one person called the "black art" of assigning parole. When, in 2005, two separate offenders committed murder while on parole, she

found that community stakeholders that had attended those meetings were willing spokespersons in the board's favour.

Mario Luis Coriolano, Vice-Chairman of the United Nations Subcommittee on the Prevention of Torture, said a major challenge was to determine what institutions were willing to do in order to reduce overcrowding and help sustain positive action in that regard. Not all policies directed at preventing crime were compatible with the goal of reducing crime, he said, noting that politicians promoted strategies that sent large numbers of people to prison. It was also important to create a sense of accountability among States so as to prevent overcrowding once such a policy had been established.

Agreeing, Mr. Albrecht said in his closing statement that overcrowding stood in the way of rehabilitative elements of a prison, often resulting in violations of human rights or the international prohibition against cruel and inhuman forms of punishment. The problem could not be solved by criminal law alone, he added, stressing that good criminal policy must also be good social policy, with prisons being the last resort.

Among delegates that spoke this afternoon were the representatives of Canada, Brazil and Algeria, who described their national approaches to prison overcrowding.

Other speakers were representatives of the International Commission of Catholic Prison Pastoral Care and the Open Society Institute.

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For further information:

To download the press kit and other information (also in Portuguese), visit:
www.unis.unvienna.org/unis/en/events/2010/12th-crime-congress.html
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