

ADVANCING HUMAN RIGHTS THROUGH INTERNATIONAL PRISON REFORM

HEARING BEFORE THE TOM LANTOS HUMAN RIGHTS COMMISSION HOUSE OF REPRESENTATIVES

ONE HUNDRED AND FIFTEENTH CONGRESS

SECOND SESSION

JANUARY 17, 2018

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ADVANCING HUMAN RIGHTS THROUGH INTERNATIONAL PRISON REFORM

WEDNESDAY, JANUARY 17, 2018

HOUSE OF REPRESENTATIVES
TOM LANTOS HUMAN RIGHTS COMMISSION
Washington, D.C.

The commission met, pursuant to call, at 2:30 p.m., in Room 2255 Rayburn House Office Building, Hon. James P. McGovern and Hon. Randy Hultgren [co-chairmen of the commission] presiding.

Mr. HULTGREN: Good afternoon. Welcome to the Tom Lantos Human Rights Commission's hearing on Advancing Human Rights Through International Prison Reform. It is an issue that is very close to my heart, for a warm welcome to all of our witnesses. And want to also acknowledge my strong bond with one of our witness organizations, Prison Fellowship. In fact, I am a founding member of Prison Fellowship's Faith and Justice Fellowship, which was established in 2016 to bring together a group of policymakers from various faith traditions and political parties, united in a desire to promote restorative values in the criminal justice system.

I know Craig DeRoche will talk about the inspirational story of Prison Fellowship and its founder Chuck Colson. Chuck had a huge impact on my life and on my family. Was, honestly, one of my mentors from a distance but also had a chance to spend quite a bit of time in one year, I was part of a Centurion program that they had of training people who were involved mainly in state and local governments to be involved in important issues of justice and impact for good.

And through his impact on my life, and also seeing how he turned something that was dark and difficult in his own life of having to serve in prison, but also recognizing the problems that prison systems have, to a commitment to better our prison systems here but also around the world. And am convinced that because of his work in Prison Fellowship, literally hundreds of thousands, if not millions, of prisoners have been impacted for good.

And reminded of Chuck Colson often. Our youngest son -- we have got four kids, my wife and I -- but our youngest son we named Kolsen after Chuck Colson, and we call him Cole. But when he is in trouble he is Kolsen. But still think about Chuck often and miss him when we lost him five, six years ago now. But, anyhow, grateful for him but also for Prison Fellowship and the work that continues.

My concern for prisoners and about the need to improve prison conditions comes mainly from my faith, but also under that recognition that every single person is of value. And I think everybody watching and hearing this hearing, whether they are driven by faith or not, would agree that every life has intrinsic value and dignity, and that every prisoner has a potential to redeem himself or herself. Unfortunately, too many prisons are run in a way that crushes the human dignity. This is true around the world and, yes, too oftentimes even here in America.

This is a human rights commission, and I believe that anybody who knows the facts about prison conditions worldwide will have to agree that terrible violations of human rights are inflicted on millions of prisoners. It is not a contradiction to recognize that although some people deserve to be imprisoned, while they are in prison their treatment should meet basic human rights standards.

Nelson Mandela, himself a prisoner for nearly 30 years, famously said, and I quote, "No one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones." And I end that quote.

When we look inside jails around the world what will we find? Too often we find torture. But even where explicit torture is not used there are conditions amounting to torture: prisons where horrific violence is condoned while wardens turn a blind eye; terrible overcrowding and lack of health services, which combined seem designed to spread the worst diseases -- HIV, tuberculosis, hepatitis, among others; too many prisons and prisoners lack basic clothing, food, clean water, and even sufficient light to see. The impact of these conditions is often disproportionate on vulnerable populations, including youth and women. And this mistreatment has had an impact beyond the prisoners themselves. It has an impact that is shared by the innocent families of prisoners who live on the outside or, appallingly, are sometimes forced to move into the prison themselves.

We find the impact on communities where prisoners, who have been denied any meaningful chance to improve themselves, will be returned to society ripe for recidivism.

During this hearing we will discuss what is wrong with prisons worldwide and how the reality of prison life often fails to meet these minimum standards. But I believe we can also learn about real solutions that are being tried and succeeding, programs and ideas that transcend partisan boundaries and which can give us hope that meaningful international prison reform is possible. And with that reform comes a positive impact on individuals, their families, and their communities all over the world.

There are internationally accepted standard minimum rules for the treatment of prisoners known, fittingly, as the Mandela Rules. Philip Meissner is a prison reform focal point in the U.N. Office of Drugs and Crime in Vienna, Austria. He has come to Washington to discuss these rules. He is going to be our first witness.

But I'm going to first recognize my co-chairman and colleague Jim McGovern who it is my honor to serve with.

[The prepared statement of Co-chair Hultgren follows]

PREPARED STATEMENT OF THE HONORABLE RANDY HULTGREN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS AND CO-CHAIRMAN OF THE TOM LANTOS HUMAN RIGHTS COMMISSION



Tom Lantos Human Rights Commission Hearing

Advancing Human Rights through International Prison Reform

January 17, 2018

2:30 – 4:00 PM

2255 Rayburn House Office Building

Opening Remarks as prepared for delivery

Good afternoon and welcome to the Tom Lantos Human Rights Commission's hearing on Advancing Human Rights through International Prison Reform.

This is an issue that is very close to my heart. I offer a warm welcome to all our witnesses today, and I want to also acknowledge my strong bond with one of our witness organizations, Prison Fellowship.

In fact, I'm a founding member of Prison Fellowship's Faith and Justice Fellowship, which was established in 2016 to bring together a group of policy makers from various faith traditions and political parties, united in a desire to promote restorative values in the criminal justice system.

I know Craig DeRoche will talk about the inspirational story of Prison Fellowship and its founder, Chuck Colson. Chuck Colson had a huge impact in my life.

My concern for prisoners, and about the need to improve prison conditions, comes from my faith, as it does for so many others.

But even if you don't come to this issue through religious faith, I hope everybody watching this hearing at least has faith in this: that every life has intrinsic value and dignity, and that every prisoner has the potential to redeem himself or herself.

Unfortunately, too many prisons are run in a way that crushes that human dignity. This is true around the world and, yes, even here in America.

This is a Human Rights Commission, and I believe that anybody who knows the facts about prison conditions worldwide will have to agree that terrible violations of human rights are inflicted on millions of prisoners.

It is not a contradiction to recognize that, although some people deserve to be imprisoned, while they are in prison their treatment should meet basic human rights standards.

Nelson Mandela, himself a prisoner for nearly 30 years, famously said that "no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones."

And when we look inside jails around the world, what will we find? Too often, we find torture: but even where explicit torture is not used, there are conditions amounting to torture.

Prisons where horrific violence is condoned while wardens turn a blind eye.

Terrible overcrowding and a lack of health services which, when combined, seem designed to spread the worst diseases – HIV, tuberculosis, and hepatitis among them.

In too many prisons, prisoners lack basic clothing, food, potable water, or even sufficient light to see.

The impact of these conditions is often disproportionate on vulnerable populations, including youth and women.

And this mistreatment has an impact beyond the prisoners themselves: it is an impact that is shared by the innocent families of prisoners who live on the outside or, appallingly, are sometime forced to move into the prison themselves.

We find the impact on communities, where prisoners who have been denied any meaningful chance to improve themselves, or motive for reform, will be returned to society ripe for recidivism.

During this hearing, we will discuss what is wrong with prisons worldwide, and how the reality of prison life often fails to meet those minimum standards.

But I believe we can also learn about real solutions that are being tried – and succeeding. Programs and ideas that transcend partisan boundaries and which can give us hope that meaningful international prison reform is possible. And with that reform comes a positive impact on individuals, their families, and their communities all over the world.

There are internationally accepted Standard Minimum Rules for the Treatment of Prisoners, known – fittingly – as “the Mandela Rules.”

Philipp Meissner is the Prison Reform Focal Point in the UN Office on Drugs and Crime in Vienna, Austria. Mr. Meissner has come to Washington to discuss these rules, and he is our first witness.

Mr. McGOVERN: Well, thank you very much. And I -- good afternoon, everybody. And I want to join my colleague and co-chair Randy Hultgren in welcoming all of you here today to our hearing on Advancing Human Rights Through International Prison Reform. I especially want to thank our witnesses for their presence and for sharing their expertise and their recommendations with us on this important issue.

I am going to apologize in advance. As I was mentioning to my colleague, we just were notified this morning that the Rules Committee will meet at 3:00 on the continuing resolution which, for those of you who aren't following this, means whether we keep the government open or not. So, you know, this is important but I have got to, you know, I am going to have to do that brief -- for a little bit.

But as we will hear this afternoon, more than 10 million people around the world are in prison. In most regions the number of people in prison has grown since 2000, often substantially: in the Americas, by 108 percent, excluding the U.S.; and 75 percent in Southeastern Asia and the Middle East. Women make up a relatively small but growing share of the prison population.

Many prisoners face dire conditions: overcrowding; violence, both inter-prisoner and between staff and prisoners; torture; denial of healthcare; unhealthy and insufficient food; forced labor. Privacy is scarce, to put it mildly. Children, women, the disabled, and LGBTQ people are especially vulnerable to discrimination and mistreatment, including sexual violence.

Many imprisoned people are in pre-trial detention, meaning they suffer these conditions without yet having been convicted of anything.

As we hear the bad news about prison conditions around the world today, it is worth reminding ourselves why societies imprison people in the first place. What are we trying to accomplish when we put people in jail?

There is pretty wide agreement that we imprison people for two reasons: to deter crime; and to reduce recidivism, to make it less likely that people will continue to commit crimes. But as people come out of prison, out of the prison system broken and embittered, with their families destroyed, and unprepared to work, and stigmatized to boot, it is unlikely that societies will achieve these goals. Not much good comes from breaking people's souls.

The good news is that there is widespread international consensus on the standards that should guide the treatment of prisoners and protect vulnerable populations of prisoners like women and children. My colleague mentioned the Mandela Rules, named for Nelson Mandela, and adopted by unanimous consent by the U.N. General Assembly in 2015, embody that consensus. Complimentary rules like the Bangkok Rules for Women and the Beijing Rules for Youth provide guidance for vulnerable populations.

These rules begin by recognizing the fundamental human rights of every person without distinction of any kind. A prisoner is still a human being deserving of dignity and hope. The issue is how to translate this basic reminder into concrete steps to improve and reform prison practices.

Our distinguished witnesses this afternoon engage and lead prison reform efforts around the world. So, I look forward to hearing from them about the challenges they face as well as the progress that is being made.

Are there countries where conditions are improving? Are there best practices to share? Perhaps you can comment on a debate that we continue to have in the United States: the differences between privately run prisons and prisons run by the government. And most important for us, what more can the United States Congress do to end human rights abuses against prisoners around the world and ensure that they are treated with dignity.

So, I am grateful that you are here. And if I am not here physically, I will be here in spirit. And there are people in the audience here who will inform me of what you say. But, again, thank you for your work.

I yield back.

[The prepared statement of Co-chair McGovern follows]

PREPARED STATEMENT OF THE HONORABLE JAMES P. McGOVERN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS AND CO-CHAIRMAN OF THE TOM LANTOS HUMAN RIGHTS COMMISSION



Tom Lantos Human Rights Commission Hearing

Advancing Human Rights Through International Prison Reform

Wednesday, January 17, 2018

2:30 – 4:00 PM

2255 Rayburn House Office Building

Opening Remarks as prepared for delivery

Good afternoon. I join my colleague and co-chair, Randy Hultgren, in welcoming you to our hearing today on *Advancing Human Rights Through International Prison Reform*. I especially want to thank our witnesses for their presence and for sharing their expertise and recommendations with us on this important issue.

As we will hear this afternoon, more than 10 million people around the world are imprisoned. In most regions the number of people imprisoned has grown since 2000, often substantially – in the Americas, 108% (excluding the U.S.), and 75% in southeastern Asia and the Middle East.

Women make up a relatively small but growing share of the prison population.

Many prisoners face dire conditions: over-crowding; violence, both inter-prisoner and between staff and prisoners; torture; denial of health care; unhealthy and insufficient food; forced labor. Privacy is scarce, to put it mildly.

Children, women, the disabled and LGBTQ people are especially vulnerable to discrimination and mistreatment, including sexual violence.

Many imprisoned people are in pre-trial detention, meaning they suffer these conditions without yet having been convicted of anything.

As we hear the bad news about prison conditions around the world today, it is worth reminding ourselves why societies imprison people in the first place. What are we trying to accomplish when we put people in jail?

There is pretty wide agreement that we imprison people for two reasons: to deter crime, and to reduce recidivism – to make it less likely that people will continue to commit crimes.

But if people come out of a prison system broken and embittered, with their families destroyed and unprepared to work – and stigmatized to boot – it is unlikely that societies will achieve those goals.

Not much good comes from breaking people's souls.

The good news is that there is widespread international consensus on the standards that should guide the treatment of prisoners and protect vulnerable populations of prisoners like women and children. The Mandela rules, named for Nelson Mandela and adopted by unanimous consent by the UN General Assembly in 2015, embody that consensus.

Complementary rules like the Bangkok rules for women and the Beijing rules for youth provide guidance for vulnerable populations.

These rules begin by recognizing the fundamental human rights of every person, without distinction of any kind. A prisoner is still a human being, deserving of dignity – and of hope.

The issue is how to translate this basic reminder into concrete steps to improve and reform prison practices.

Our distinguished witnesses this afternoon engage and lead prison reform efforts around the world.

I look forward to hearing from them about the challenges they face, as well as the progress that is being made – are there countries where conditions are improving? Are there best practices to share?

And most important for us – what more can the United States Congress do to end human rights abuses against prisoners around the world, and ensure that they are treated with dignity.

Thank you.

Mr. HULTGREN: Thank you. I do appreciate -- sorry about that -- appreciate Co-Chairman McGovern. And I do give him great kudos for serving on the Rules Committee. That is really challenging.

Mr. McGOVERN: I would like a pay increase.

Co-Chair HULTGREN: It is like combat pay I think some days, some really late nights. But I appreciate his commitment to be here and absolutely understand his demands on his time at the Rules Committee.

But so grateful for our panelists. We will have two panels today. And I am going to recognize them now for their testimony, then we will have some questions, if that is all right.

So first, I mentioned Philipp Meissner, Crime Prevention and Criminal Justice Office, United Nations Office on Drugs and Crime. And then also Hilary Anderson, Senior Specialist, Inter-American Commission of Women, Organization of American States. So, grateful you are here. So, Philipp, first we will recognize you. Thank you.

STATEMENTS OF PHILIPP MEISSNER, CRIME PREVENTION AND CRIMINAL JUSTICE OFFICE, UNITED NATIONS OFFICE ON DRUGS AND CRIME; AND HILARY ANDERSON, SENIOR SPECIALIST, INTER-AMERICAN COMMISSION OF WOMEN, ORGANIZATION OF AMERICAN STATES

STATEMENT OF PHILIPP MEISSNER, CRIME PREVENTION AND CRIMINAL JUSTICE OFFICE, UNITED NATIONS OFFICE ON DRUGS AND CRIME

Mr. MEISSNER: Good afternoon. Thank you very much, Representative Hultgren and Representative McGovern for convening this important meeting today and for inviting UNODC to testify before this Commission. It is a great pleasure to be here. Let me start my testimony pretty much along your lines by reiterating the importance and urgency of addressing prison management from an international perspective. As not only are we talking, as Representative McGovern has already mentioned, about a very significant, and growing population -- currently standing at more than 10 million prisoners worldwide, 2.5 million of whom on remand -- but we are also talking about massive challenges really to ensure their safe, their secure, and their humane custody. The global phenomenon of prison overcrowding, which is probably one of the most visible of these challenges, continues to affect a solid majority of Member States worldwide.

In its most extreme forms, this results in life-threatening situations in which the health, the safety, and really the most basic needs of prisoners may be neglected; in which prisoners may literally have to sleep in shifts due to a lack of space; and in which

the key principle of a proactive rehabilitation of offenders is in practice being reduced to their temporary incapacitation at best. Too often, however, situations such as these go unnoticed for too long, despite the fact that it is, as we all know, not only the human rights of prisoners that are at stake, but also public safety and public health.

This being said, as you have mentioned, there is also reason for hope. As prison reform efforts have gained a significant renewed momentum following a landmark achievement at the international level in December 2015, namely, the adoption of the revised Standard Minimum Rules for the Treatment of Prisoners, the so-called Nelson Mandela Rules. And despite their legally non-binding nature, these 122 rules -- and I brought, hopefully, a sufficient number of copies with me for your kind consideration -- represent the single most important normative compass for prison management that has been universally endorsed by the international community.

The overall parameters of these rules being that prisoners must be treated in line with their dignity and value as human beings; and, importantly, that the ultimate purpose of imprisonment, namely, the protection of society from crime, can only be achieved if the period of imprisonment is used, as much as possible, to prepare prisoners for their successful reintegration into society upon release.

Now, as you may recall, the Nelson Mandela Rules are the result of an intense inter-governmental effort to update the original version of the Standard Minimum Rules from 1955. And in light of the vast diversity of prison systems worldwide, you can imagine the formidable challenge of Member States from across the globe convening in order to agree, by consensus, on enhanced global standards for prison management. Unsurprisingly, therefore, it took four inter-governmental Expert Group Meetings between 2012 and 2015 to agree on a revised wording and content of the rules.

With your permission, allow me please to briefly mention five thematic areas which were given particular attention during the revision process:

First of all, principles related to the humane treatment of prisoners have been strengthened, including, obviously, the absolute prohibition of torture or ill treatment. These are, secondly, complemented by numerous procedural safeguards for prisoners, such as those related to requests and complaints, to prisoners' access to legal advice and, importantly, the requirement for regular inspections of prisons, both of an internal and often external independent nature.

Thirdly, the Nelson Mandela Rules set forward detailed guidance on restrictions and discipline, including disciplinary sanctions; the guidance on searches of prisoners or cells; the guidance on the use of instruments of restraint, or the strict limitations applicable to the use of solitary confinement. On this particular point, and due to its potentially severe consequences on prisoners, the Nelson Mandela Rules now prohibit solitary confinement beyond the duration of 15 consecutive days. They prohibit the

imposition of solitary confinement by virtue of a prisoner's sentence or its use on specific categories of prisoners which are considered particularly vulnerable.

Another extensive and fourth area of revision relates to the provision and quality of healthcare services in prisons, including respective duties and prohibitions of healthcare professionals.

Finally, a point that I personally feel also strongly about in light of the challenging duties of prison staff, the need for tailored and extensive training of prison officials, be it induction training or in-service training, it is now equally firmly anchored in the revised rules.

Distinguished co-chairs, there is no doubt that the adoption of the Nelson Mandela Rules in and by itself is a reason to celebrate. It is our hope, however, that the significant resources that went into the revision process will now be matched by similar efforts to support the practical application of the rules worldwide. As the guardian of the Nelson Mandela Rules and other relevant standards such as the Bangkok Rules with regards to the treatment of women prisoners, UNODC has been requested by the General Assembly to provide further guidance material on the rules, and to deliver technical assistance to member states.

And building on our past work in the field of prison reform, we have therefore launched the first ever dedicated Global Programme of UNODC on Addressing Prison Challenges, keeping in mind that, obviously, a lot of the challenges that manifest in prisons, including overcrowding for example, go very well beyond the control of the prison administration, but rather are the result over overall deficiencies in the criminal justice system.

UNODC's Programme, therefore, focuses on three strategic objectives, namely to assist Member States, upon request, in rationalizing the scope of imprisonment, including by means of an increased resort to non-custodial sanctions; second, the core of the program strengthening prison management and improving prison conditions; and, third, supporting the social reintegration of prisoners upon release.

Beyond UNODC we also feel very much encouraged by the fact that the renewed spotlight on prison conditions and the treatment of prisoners, which the Nelson Mandela Rules have certainly created, also manifested in May last year in the formation of a Vienna-based Group of Friends of the Nelson Mandela Rules, which is an informal group of like-minded Member States which have a particular interest in supporting the practical application of the rules, together with UNODC, other international and regional organizations, as well as civil society.

I would like to conclude, Mr. Co-Chair, by calling upon all of us to make use of this updated and universally accepted blueprint for prison management for the benefit of an often forgotten population; for the benefit of their families and children; for the benefit

of public officials working in prisons who very often do not receive the recognition they deserve; and, finally, for the benefits of societies at large, to whom we, must not forget, the vast majority of prisoners will eventually return.

I thank you very much for your attention and look forward to your questions.
Thank you.

[The prepared statement of Mr. Meissner follows]

PREPARED STATEMENT OF PHILIPP MEISSNER



UNODC

United Nations Office on Drugs and Crime

Tom Lantos Human Rights Commission Hearing

Advancing human Rights through International Prison Reform

Mr. Philipp Meissner, Crime Prevention and Criminal Justice Officer, Justice Section,

United Nations Office on Drugs and Crime

Thank you very much, Representative Hultgren and Representative McGovern, for convening this important meeting, and for inviting UNODC to testify before this Commission today.

Please allow me to start by reiterating both the importance and urgency of addressing the management of prisons from an international perspective: Not only are we talking about a very significant, diverse and growing population – namely over 10 million people imprisoned worldwide, 2,5 million of whom on remand – but also about massive challenges to ensure their safe, secure and humane custody. The global phenomenon of

prison overcrowding – probably one of the most visible of those challenges – continues to affect a solid majority of Member States across the globe.

In its most extreme form, this results in life-threatening situations in which the health, the safety and the most basic needs of prisoners may be neglected; in which prisoners may literally have to sleep in shifts due to a lack of space; and in which the key principle of pro-active rehabilitation of offenders may be reduced to their temporary “incapacitation” at best. Too often, however, situations such as these go unnoticed for too long – despite the fact that it is not only the human rights of prisoners that are at stake, but also public health and public safety.

This being said, there is also reason for hope. Prison reform efforts have gained renewed momentum following a landmark normative achievement in December 2015, namely the adoption by the General Assembly of the *UN Standard Minimum Rules for the Treatment of Prisoners* (the so-called Nelson Mandela Rules)¹. Despite their legally non-binding nature, these 122 rules are the single most important “normative compass” for prison management at the international level, endorsed by the international community as a whole. The overall parameters of these rules being that prisoners must be treated in line with their dignity and value as human beings; and that the ultimate purpose of imprisonment – namely the protection of society from crime – can only be achieved if the period of imprisonment is used, as much as possible, to prepare prisoners for their successful social reintegration upon release.

The Nelson Mandela Rules are the result of an intense inter-governmental effort to update the original version of the Standard Minimum Rules from 1955. In light of the vast diversity of prison systems worldwide, you can imagine the formidable challenge of Member States convening in order to agree – by consensus – on enhanced global standards

¹ See http://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf.

for prion management. Unsurprisingly, it took four inter-governmental Expert Group Meetings between 2012 and 2015 to agree on a revised wording of the rules.²

Five thematic areas were given particular attention during the revision process: First of all, principles related to the *humane treatment of prisoners* have been strengthened, in particular the absolute prohibition of torture or ill-treatment. These are complemented by numerous *procedural safeguards*, such as those related to requests and complaints of prisoners, their access to legal advice and the requirement for regular inspections of prisons, the latter to encompass both external and internal mechanisms.

Thirdly, the Nelson Mandela Rules set forward detailed guidance on *restrictions and discipline*, ranging from searches to instruments of restraint and strict limitations applicable to the use of solitary confinement. Importantly, and due to its potentially severe consequences, the rules now prohibit solitary confinement beyond a duration of 15 consecutive days, its imposition by virtue of a prisoner's sentence or its use on specific categories of prisoners which are considered to be particularly vulnerable.

A fourth and extensive area of revision relates to the provision and quality of *health care services* in prisons. In this regard, the revised rules reiterate the principle of equivalence and continuity of care, i.e. that prisoners should enjoy the same standards of health care than persons at liberty, in close relationship with the general public health administration; and that necessary health-care services for prisoners should be provided free of charge. Furthermore, detailed guidance is provided on the authority, duties and prohibitions of health-care professionals.

Finally, in recognition of the challenging duties of prison staff, the need for tailored *training* before entering on duty and in the course of their service, is firmly anchored in the revised rules, including minimum content requirements for induction training. Prison officers constitute the single most important element of any prison system, and the Nelson

² See http://www.unodc.org/documents/justice-and-prison-reform/17-04946_E_ebook_rev.pdf.

Mandela Rules clarify the specific capacities they should have, which go beyond, and are distinct from those of other law enforcement officials.

Mr. Co-Chair, there is no doubt that the adoption of the Nelson Mandel Rules is, in itself, a reason to celebrate. It is our hope, however, that the significant resources that went into the revision process will now be matched by similar efforts to support the practical application of the rules worldwide. As the guardian of the Nelson Mandela Rules and other relevant international standards – such as the UN Rules for the Treatment of Women Prisoners and Non-custodial measures for Women Offenders (the so-called Bangkok Rules) – UNODC has been requested by the General Assembly to design further guidance material on the rules and to provide related technical assistance to Member States. Building on our past work in the field of prison reform, we have therefore launched UNDC’s first dedicated *Global Programme on Addressing Prison Challenges*, keeping in mind two key considerations:

Firstly, many challenges manifesting in prisons go well beyond the control of prison administrations, and rather result from overall deficiencies in criminal justice systems. Secondly, high rates of recidivism in many Member States point not only to the need for a more rehabilitative approach to prison management, but also for prison-based interventions to be linked with, and complemented by post-release support services. UNODC’s Programme therefore focusses on three strategic objectives, namely to assist Member States, upon request, in (i) rationalizing the scope of imprisonment, including by means of an increased resort to non-custodial sanctions; (ii) strengthening prison management and improving prison conditions; and (iii) supporting the social reintegration upon release.³

In terms of specific guidance material on the Nelson Mandela Rules, UNODC has recently published an important handbook entitled *Assessing compliance with the Nelson Mandela Rules – A checklist for internal inspection mechanisms*⁴. Based on seven thematic areas, 36 expected outcomes and 240 indicators, this tool provides prison practitioners with

³ See http://www.unodc.org/documents/justice-and-prison-reform/16-05081_E_rollup_Ebook.pdf.

⁴ See http://www.unodc.org/documents/justice-and-prison-reform/17-04946_E_ebook_rev.pdf.

a practical tool to continuously monitor and assess their compliance with the rules, and to identify areas where improvements may be needed. In addition to the checklist, an e-learning training course on the Nelson Mandela Rules, a corresponding pocketbook for prison staff as well as instructional placards for awareness-raising in prison facilities are in the making.

Following the adoption of the Doha Declaration in the course of the last UN Congress on Crime Prevention and Criminal Justice in Doha, Qatar, in April 2015, UNODC has further launched a Global Programme on the Implementation of the Doha Declaration, which includes a distinct component on fostering the rehabilitation and social reintegration of prisoners.⁵ Under this component, numerous Member States currently receive technical assistance geared at supporting the initiation or enhancement of prison-based rehabilitation programmes in line with the Nelson Mandela Rules, with a particular focus on education, vocational training and work.

Beyond UNOD, we also feel encouraged by the fact that the renewed spotlight on prison conditions and the treatment of prisoners has manifested in the formation, in May 2017, of a Vienna-based *Group of Friends of the Nelson Mandela Rules* – an informal group of like-minded Member States with a particular interest in supporting the practical application of the rules, in close coordination with UNODC, other international organizations and civil society.

I would also like to recall that in the course of the adoption of the Nelson Mandela Rules, the General Assembly equally decided to extend the scope of *Nelson Mandela International Day* – celebrated each year on 18 July – with a view to equally use this day to promote humane conditions of imprisonment; to raise awareness about prisoners being a continuous part of society; and to value the work of prison staff as a social service of particular importance. Numerous Member States have already followed this call by initiating public awareness-raising campaigns, conferences and other events on 18 July in

⁵ See https://www.unodc.org/documents/dohadeclaration/Prisons/infosheet/info_sheet_Prisons_EN.pdf.

order to keep prisoners and prison staff in the mind of policy-makers and the general public alike.

I would like to conclude, Mr. Co-Chair, by calling upon all of us to make use of this updated and universally accepted blueprint for prison management – for the benefit of an often forgotten population hidden behind walls and barbed wire; for the benefit of their families and children; for the benefit of public officials who often do not receive the recognition they deserve; and for the benefit of societies at large, to whom the large majority of prisoners will eventually return.

I thank you for your attention.

Washington DC, 18 January 2018

Mr. HULTGREN: Thank you, Mr. Meissner.

I will fix my microphone here, and recognize Ms. Anderson. Thank you very much.

STATEMENT OF HILARY ANDERSON, SENIOR SPECIALIST, INTER-AMERICAN COMMISSION OF WOMEN, ORGANIZATION OF AMERICAN STATES

Ms. ANDERSON: Thank you very much, Mr. Co-Chair, and good afternoon, everybody.

While women deprived of liberty in the Americas still represent just under 5 percent of the total prison population -- so not a big number -- they face a serious of differentiated risks and obstacles that relate to the historic social and economic inequality between women and men, that systematically place them at a disadvantage -- at a disadvantage in a variety of ways.

As an important first point before I go on, the data on women deprived of liberty in the region of the Americas is not strong. That said, we do have a general profile of incarcerated women.

Globally, according to the Institute for Criminal Policy Research, since 2000, the incarceration of women has grown by 51.6 percent. And that is faster than any other region in the world except Asia, and much faster than the rate of incarceration of men. And this is mainly a result of increasingly harsh policies related to drugs.

In the Americas, between 60 to 80 percent of women in prisons are incarcerated for drug-related crimes, and a large number of these women, as Representative McGovern alluded to earlier, are actually in pre-trial detention rather than prison. These tend to be low-level, non-violent offenses related to micro-trafficking, small-scale sales, trying to bring drugs into penitentiary centers, transporting money, and other similar acts. Incarcerated women are mainly poorer, less educated, living in precarious economic and social circumstances. These circumstances often force them -- either through economic necessity, some type of coercion from male family or community members, or a combination of the two things -- to participate in these low-level offenses.

Incarcerated women are frequently single mothers with sole or primary responsibility for the maintenance of their households and their families. Their incarceration thus affects not only them, but the children and other persons for whom they are responsible, which may include elderly, ill and/or disabled family members.

When a woman is incarcerated, there are limited options for her children and other dependent family members. Children are either placed in prison with their mothers, generally up to the age of about 5 years old in the Americas, although it varies from

country to country; in the care of another, usually female, family member, such as a grandmother, an aunt, or an older daughter; or they are institutionalized by the state.

While it is clear that the incarceration of a father has, unfortunately, less impact on children than the incarceration of their mother, we don't have a lot of concrete information on what happens to children -- psychologically, socially, and economically -- when their parents, and particularly their mothers, are incarcerated. A recent study by the Church World Service and Gurises Unidos in Uruguay, points to the multiple human rights that are placed at risk when a child's parent or parents are incarcerated, including the fact of the lack of documentation of their vulnerability and the lack of coordination between state judicial, penitentiary, and child protection systems.

The incarceration of women leaves the people under their care vulnerable to poverty, marginalization, and neglect, which can, in turn, have long-term consequences, such as their own involvement in criminal organizations and even institutionalization. A lot of the evidence that we currently have on the violations of the human rights of incarcerated women is anecdotal -- and that is not to minimize its importance, because there is a lot of anecdotal evidence -- but it is to call attention to the need for a more rigorous and systematic approach to identifying, documenting, and above all, responding to these violations of human rights.

A recent study from the Inter-American Commission on Human Rights at the OAS on the use of pre-trial detention in the Americas points to the disproportionately serious hardships and adverse consequences that affect women who are deprived of liberty, including: a lack of female-only detention centers -- they are often placed in detention centers with male prisoners; an inadequate prison infrastructure bearing in mind their gender and the development of their mother-child relationships and their particular needs in terms of access to healthcare; a lack of gender-appropriate medical treatment; greater difficulties with social reintegration; and absence of a gender perspective in data gathering on the deprivation of liberty; and subjection to forms of violence, including sexual abuse by prison staff.

This situation is exacerbated by the fact that incarcerated women have even less access to recourse than women in the general population when their rights are violated, subjected as they are to the complete control and power of state agents.

This is particularly worrying in cases of physical and sexual violence against female inmates, which are common but occur with almost complete impunity. A recent report from Equis Justicia in Mexico presents the results of interviews with women inmates that highlight some of the violations to which they are subjected, and these include but are not limited to:

Physical violence such as near-asphyxiation with plastic bags, beatings, and other forms of physical torture, which may result in incapacitation and often miscarriage;

Forced nudity, such as being observed while in the shower or using the toilet, and invasive body searches by male prison guards, other forms of sexual torture and rape -- including penetration with both penises and other foreign objects -- of women throughout arrest, pre-trial detention, trial, sentencing, and incarceration, most often at the hands of prison guards and other agents of the state;

Forced prostitution or exchange of sex for "favours," which can include simply an absence of physical and sexual violence, or things like increased access to contact with family members, or material benefits such as improved accommodations;

Lack of access to or denial of healthcare services, or specific violations committed during the provision of healthcare services, including the shackling of pregnant women to their beds during labor and delivery, lack of access to contraceptives and HIV prevention tools, despite the presence of sexual violence against female inmates, or their inability to negotiate sex with their partners during conjugal visits;

Forced nudity and invasive body searches by male prison guards of women who visit male partners or other male or female relatives and friends in penitentiary centers. So this is not a problem that specifically affects incarcerated women, but it does affect women who have to visit prisons.

As we have seen globally in recent months, violence against women in general is underreported. These violations committed against female inmates are even more significantly underreported, as they are often committed by the very people responsible for taking these reports and guaranteeing the health and safety of female inmates. While the physical consequences of this violence, including injuries, forced miscarriages, and forced pregnancy, among others, often go undocumented and unattended, it is the psychological trauma and stigma attached to sexual violence that the women interviewed in Mexico referenced most frequently. This trauma and shame often leads to their own self-isolation and withdrawal from contact with their families, as well as to a general lack of confidence in institutions of the state.

A number of countries in the region have taken concrete steps to address the situation of incarcerated women. And in addition to the limited, but growing, body of international law that explicitly or implicitly protects the rights of people deprived of liberty, in this context there are several tools that at the international and inter-American level that can assist states in strengthening the gender perspective of their prison reform efforts.

These tools include, in the Americas region the Inter-American on the Prevention, Punishment and Eradication of Violence against Women, known as the Belem do Para Convention, which establishes violence against women as a violation of their human rights, including when it is perpetrated or tolerated by the state or its agents, and creates a

state obligation of due diligence for the investigation, punishment, and reparation of crimes of violence against women;

The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, usually known as the Bangkok Rules, which all of my colleagues have referenced previously, which give guidance to policy makers, legislators, sentencing authorities, and prison staff in order to reduce the imprisonment of women, and to meet the specific needs of incarcerated women. The Bangkok Rules address admission procedures, access to healthcare -- which is broadly understood to include treatment for substance abuse, psychological care to prevent suicide and self-harm, and preventive healthcare -- humane treatment, search procedures, and children who accompany their mothers into penitentiary centers.

The decision of the Inter-American Court of Human Rights in the case of the Miguel Castro-Castro Prison v. Peru, which among other standards established that the use of physical violence and sexual abuse by agents of the state, in this case the Peruvian National Police and the Peruvian military, as well as the denial of health services to pregnant inmates, constituted both violence against women under the Belem do Para Convention and torture, under the terms of the Inter-American Convention to Prevent and Punish Torture;

Resolution 2907 of the OAS General Assembly, in 2017, which among other things requested the OAS General Secretariat to examine the implementation of alternatives to incarceration, special treatment initiatives, and evidence-based social reintegration programs, bearing in mind the increasing number of women in the region who have been deprived of their liberty for drug use or minor drug-trafficking offenses, and the enormous family, social, economic, and institutional repercussions that this entails. This resolution joins a series of previous resolutions that address the issues of -- that address issues of drug policy and incarceration from various perspectives, with a specific focus on human rights and, to an increasing degree, gender equality.

Even in the context of the limited body of data on the situation of incarcerated women, a number of concrete policy and programmatic recommendations are still possible:

For example, adopting a gender perspective in the design, implementation, and follow-up of legislative and policy reforms on the issue of penal reform;

Considering the use of alternative sentencing, non-custodial measures such as house arrest, and other measures for women accused of low-level, non-violent offenses, taking particular note of the potential impact of incarceration on women's dependent family members, including children, people with disabilities, and older persons. Establishing procedures and mechanisms to monitor the implementation and follow-up of these measures is another crucial component;

Prioritizing the implementation of economic and social reintegration programs for incarcerated women that will, on the one hand, minimize the impact of incarceration on their families and the persons under their care and, on the other hand, provide them with concrete tools to build their own economic autonomy on leaving prison, thus reducing the risk of recidivism;

Employ an intersectional and intercultural approach to prison reform that takes into account the additional risks and obstacles faced by afro-descendant persons, indigenous persons, LGBTI and older persons, people with disabilities, and children and adolescents. These risks include additional or aggravated violations of human rights.

In particular, as the Inter-American Commission on Human Rights has pointed out, the needs of trans persons should be taken into account, and these persons should be consulted in deciding whether to place them in penitentiary centers designed for a population whose gender is not that with which the trans person identifies -- for example, trans women housed in prisons for the male population or vice versa.

Thank you.

[The prepared statement of Ms. Anderson follows]

PREPARED STATEMENT OF HILARY ANDERSON

Advancing Human Rights through International Prison Reform: A gendered approach from the Americas

*Hilary Anderson, Senior Specialist, Inter-American Commission of Women
Organization of American States*

While women deprived of liberty in the Americas still represent just under five percent of the total prison population,¹ they face a series of differentiated risks and obstacles that relate to the historic social and economic inequality between women and men, which systematically places them at a disadvantage in a variety of ways.

As an important first point, the data on women deprived of liberty in the region of the Americas is not strong. We know very little about the number of women incarcerated, the reason for their incarceration, their experiences prior to, during and after their incarceration, including violations of their human rights, and the long-term impact of this incarceration on women, and in particular on their families.

That said, we do have a general profile of incarcerated women:

- Globally, according to the Institute for Criminal Policy Research, since 2000, the incarceration of women has grown by 51.6 percent, faster than any other region in the world except Asia, and much faster than the rate of incarceration of men.²
- In the Americas, between 60 to 80 percent of women in prisons are incarcerated for drug-related crimes, and large number of these women are actually in pre-trial detention rather than prison.³ These tend to be low-level, non-violent offenses related to micro-trafficking, small-scale sales, trying to bring drugs into penitentiary centers, transporting money and other similar acts.⁴
- Incarcerated women are mainly poorer, less educated and living in precarious economic and social circumstances. These circumstances often force them – either through economic necessity, some type of coercion from male family or other community member, or a combination of the two – to participate in these low-level offenses.⁵

¹ ICPR and Birbeck. *World Prison Brief*. Institute for Criminal Policy Research and Birkbeck, University of London. Accessed on 1/16/18: <http://prisonstudies.org/world-prison-brief-data>

² ICPR (2016). *World Female Imprisonment List*. London: Institute for Criminal Policy Research. Available at: http://www.prisonstudies.org/sites/default/files/resources/downloads/world_female_imprisonment_list_third_edition_0.pdf

³ IACHR (2017). *Report on Measures Aimed at Reducing the Use of Pretrial Detention in the Americas*. Washington, DC: Inter-American Commission of Human Rights, Organization of American States. Available at: <http://www.oas.org/en/iachr/reports/pdfs/PretrialDetention.pdf>

⁴ CIM/OAS (2013). *Women and drugs in the Americas: A policy working paper*. Washington, DC: Inter-American Commission of Women, Organization of American States. Available at: <http://www.oas.org/en/cim/docs/WomenDrugsAmericas-EN.pdf>

⁵ WOLA, IDPC, DeJusticia and CIM/OAS (2016). *Women, Drug Policies and Incarceration: A Guide for Policy Reform in Latin America and the Caribbean*. Washington Office on Latin America, International Drug Policy Consortium, DeJusticia and Inter-American Commission of Women, Organization of American States. Available at: <http://www.oas.org/en/cim/Docs/WomenDrugsIncarceration-EN.pdf>

- Incarcerated women are frequently single mothers with sole or primary responsibility for the maintenance of their households and families. Their incarceration thus affects not only them, but the children and other persons for whom they are responsible, which may include elderly, ill and/or disabled family members.⁶
- When a woman is incarcerated, there are limited options for her children and other dependent family members – children are either they are placed in prison with their mothers (generally up to the age of about 5 years old), in the care of another (usually female) family member, such as a grandmother, aunt or older daughter, or institutionalized by the State.⁷
- While it is clear that incarceration of a father has less impact on children than the incarceration of their mother, we have little concrete information on what happens to children – psychologically, socially and economically – when their parents, and particularly their mothers, are incarcerated.⁸ A recent study by Church World Service and Gurises Unidos points to the multiple human rights that are placed at risk when a child’s parent or parents are incarcerated, including the fact the lack of documentation of their vulnerability and the lack of coordination between State judicial, penitentiary and child protection systems. The incarceration of women leaves the persons under their care vulnerable to poverty, marginalization, and neglect, which can, in turn, have long-term consequences, such as their involvement in criminal organizations or even institutionalization.⁹

A lot of the evidence that we have on the violations of the human rights of incarcerated women is anecdotal – which is not to minimize its importance, because there is an enormous amount of anecdotal evidence – but to call attention to the need for a more rigorous and systematic approach to identifying, documenting and above-all, responding to these violations. A recent study from the Inter-American Commission on Human Rights at the OAS on the use of pre-trial detention in the Americas¹⁰ points to the “...disproportionately serious hardships and adverse consequences that affect women who are deprived of liberty, include[ing]: (a) lack of female-only detention centers, (b) inadequate prison infrastructure bearing in mind their gender and the development of their mother-child relationships, (c) lack of gender appropriate medical treatment, (d) greater difficulties with social reintegration, (e) absence of a gender perspective in data-gathering on their deprivation of liberty, and (f) subjection to forms of violence, including sexual abuse by prison staff.” This situation is exacerbated by the fact that incarcerated women have even less access to recourse than women in the general population when their rights are violated, subjected as they are to the “complete control and power of State agents.”¹¹

This is particularly worrying in the multiple and widespread cases of physical and sexual violence against female inmates, which are common but occur with almost complete impunity. A recent report from

⁶ Ibid.

⁷ Church World Service and Gurises Unidos (2015). *Invisibles: ¿hasta cuándo? Una primera aproximación a la vida y derechos de niñas, niños y adolescentes con referentes adultos encarcelados en América Latina y el Caribe* [Invisible Until When? A first approach to the life and rights of children and adolescents with imprisoned adult referents in Latin America and the Caribbean]

⁸ Ibid.

⁹ IACHR (2017), op.cit.

¹⁰ IACHR (2017), op.cit.

¹¹ Ibid.

Equis Justicia in Mexico¹² presents the results of a series of interviews with women inmates that highlight some of the violations to which they are subjected, including but are not limited to:

- physical violence such as near-asphyxiation with plastic bags, beatings and other forms of physical torture, which may result in incapacitation and often miscarriage;
- forced nudity, such as being observed while in the shower or using the toilet, and invasive body searches by male prison guards, other forms of sexual torture and rape, including penetration with both penises and other foreign objects, of women throughout arrest, pre-trial detention, trial, sentencing and incarceration, most often at the hands of prison guards and other agents of the State;
- forced prostitution or exchange of sex for “favours,” which can include simply an absence of physical and sexual violence, increased access to contact with family members, or material benefits such as improved accommodations;
- lack of access to or denial of health care services, or specific violations committed during the provision of health care services, including the shackling of pregnant women to their beds during labour and delivery, lack of access to contraceptives and HIV prevention tools despite the presence of sexual violence against female visits or their inability to negotiate sex with their partners during conjugal visits;
- forced nudity and invasive body searches by male prison guards of women who visit male partners or other male or female relatives and friends in penitentiary centers;

As we have seen globally in recent months, violence against women in general is underreported. These violations committed against female inmates are even more significantly underreported, as they are often committed by the very people responsible for taking these reports and guaranteeing the health and safety of female inmates. While the physical consequences of this violence, including injuries, forced miscarriages, and forced pregnancy, among others, often go undocumented and unattended, it is the psychological trauma and stigma attached to sexual violence that the women interviewed referenced most frequently. This trauma and shame often leads to their own self-isolation and withdrawal from contact with their families, as well as to a general lack of confidence in institutions of the State.

A number of countries in the region have taken concrete steps to address the situation of incarcerated women, including programs that: guarantee special protection for women and other persons belonging to different groups in vulnerable circumstances (Colombia); take into the specific rights of women deprived of liberty and grant special protection to pregnant women and mothers (Mexico); adopt a “National Policy of Assistance to Women Deprived of Liberty and Released from Prison,” which seeks to prevent all forms of violence against women deprived of their liberty and to humanize their conditions of detention (Brazil); and incorporate a gender perspective in the use of alternatives to incarceration by prioritizing their use with women defendants and taking into account both the situation of special risk in which they would be placed if they were deprived of their liberty, and the consequences that their incarceration would have on their children and persons under their care, such as people with disabilities and older persons (Brazil, Costa Rica, Ecuador, Mexico, and Peru).

¹² Equis (2017). *Políticas de drogas, género y encarcelamiento en México: Una guía para políticas públicas incluyentes* [Drug Policy, Gender and Incarceration in Mexico: A Guide to Inclusive Public Policies]. Mexico City: Equis Justicia. Available at: <http://fileserv.idpc.net/library/poitic-as-de-drogas-genero-y-encarcelamiento-en-mexico-una-guia-para-politic-as-publi-cas-incluyentes.pdf>

In addition to the limited but growing body of international law that explicitly or implicitly protects the rights of people deprived of liberty, in this context, there are several tools at the international and inter-American level that can assist States in strengthening the gender perspective of their prison reform efforts, including:

- The *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women* (Belém do Pará Convention), which establishes violence against women as a violation of their human rights, including when it is perpetrated or tolerated by the State and its agents, and created a State obligation of due diligence for the investigation, punishment and reparation of crimes of violence against women;¹³
- The *United Nations Standard Minimum Rules for the Treatment of Prisoners* (usually known as the “Nelson Mandela Rules”),¹⁴ which although not specifically designed for women do include provisions on housing male and female inmates separately, the availability of specific and adequate health care services in women’s prisons, the prohibition of the use of solitary confinement on women and children, the use of restraints on women during labour, childbirth and immediately afterwards, access to conjugal visits for both women and men, gender balance among prison staff and external inspection teams, and the use of female-only staff in women’s prisons.
- The *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (usually known as the “Bangkok Rules”),¹⁵ which give guidance to policy-makers, legislators, sentencing authorities and prison staff to reduce the imprisonment of women, and to meet the specific needs of incarcerated women. The Bangkok Rules address admission procedures, access to health care (which is broadly understood to include treatment for substance abuse, psychological care to prevent suicide and self-harm, and preventive health care), humane treatment, search procedures, and children who accompany their mothers into penitentiary centers;
- The decision of the Inter-American Court of Human Rights in the case of *Miguel Castro-Castro Prison v. Peru*,¹⁶ which among other standards established that the use of physical violence and sexual abuse by agents of the State, in this case the Peruvian National Police and Peruvian military, as well as the denial of health services to pregnant inmates, constituted both violence against women, under the Belém do Pará Convention and torture, under the terms of the Inter-American Convention to Prevent and Punish Torture;
- Resolution AG/RES. 2907 (XLVII-O/17) of the OAS General Assembly, which among other things requested the OAS General Secretariat to examine “...the implementation of alternatives to incarceration, special treatment initiatives, and evidence-based social reintegration programs, bearing in mind the increasing number of women in the region who have been deprived of their liberty for drug use or minor drug-trafficking offenses, and the enormous family, social, economic, and institutional repercussions thereof.”¹⁷ This resolution joins a series of previous resolutions that address issues of drug policy and incarceration from various perspectives, with a specific focus on human rights and, to an increasing degree, gender equality.

Even in the context of the limited, though growing, body of data on the situation of incarcerated women, a number of concrete policy and programmatic recommendations are possible:

¹³ Available at: <http://www.oas.org/en/mesecvi/convention.asp>

¹⁴ Available at: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf

¹⁵ Available at: https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf

¹⁶ Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_160_ing.pdf

¹⁷ AG/RES. 2907 (XLVII-O/17) “Advancing Hemispheric Security: A Multi-dimensional Approach” (paragraph 79) Available at: <http://www.oas.org/en/47ga/>

- Adopt a gender perspective in the design, implementation, and follow-up of legislative and policy reforms on the issue of penal reform, in particular to take into account: (a) women's unique and historically disadvantaged position in society; (b) their history of victimization, which may be particularly extreme in the case of women convicted of offenses; (c) the absence of aggravating factors in the commission of the offense, and (d) the differentiated and incremental impact of custodial measures on;¹⁸
- Consider the use of alternative sentencing, non-custodial measures such as house arrest, and other measures for women accused of low-level, non-violent offenses, taking particular note of the potential impact of incarceration on women's dependent family members, including children, people with disabilities and older persons. Establish procedures and mechanisms to monitor the implementation and follow-up of these measures.
- Prioritize the implementation of economic and social reintegration programs for incarcerated women that will, on the one hand, minimize the impact of incarceration on their families and persons under their care and, on the other hand, provide them with concrete tools to build their own economic autonomy on leaving prison, reducing their risk of recidivism.
- Employ an intersectional and intercultural approach to prison reform that takes into account the additional risks and obstacles faced by afro-descendant persons, indigenous persons, LGBTI and older persons, people with disabilities, and children and adolescents. These risks include additional or aggravated violations of human rights.
In particular, as the IACHR has pointed out,¹⁹ the needs of trans persons should be taken into account, and these persons should be consulted, in deciding whether to place them in penitentiary centers designed for a population whose gender is not that with which the trans person identifies – for example, trans women housed in prisons for the male population or vice versa.

¹⁸ IACHR (2017), op.cit.

¹⁹ IACHR (2017), op.cit.

Mr. HULTGREN: Thank you both for your testimony. If I can have a few questions for each of you, if that is all right, before we move on to our second panel.

Mr. Meissner, what priorities does UNODC typically consider when developing technical assistance projects to advance prison reform?

And I am just wondering about how do you ensure or even how to you get buy-in from prison administration or prison staff to carry this out?

Mr. MEISSNER: Thank you very much, Mr. Co-Chair, for this very pertinent question.

In the context of our technical assistant programs we typically start our engagement, obviously, with an assessment of the respective prison system in order to identify jointly with the respective prison administrations the bottlenecks and the priority of reforms that are needed, coupled with a sort of strategic planning exercise where we lay out a sequence steps, sequence set of subsequent set of steps for reform.

In terms of thematic areas that we consider, we obviously look first of all at relevant legislation, be it primary legislation, international prison law, prison acts, as well as secondary legislation, the type of prison regulations and standing orders that provide more detailed guidance for prison officers, and refine these together with the national counterparts.

We look at safety and security in prisons, including the classification procedures that are in place to separate different categories of prisoners according to the risks that they may pose, but also according to the special needs that they may have.

The other side of the coin, prison-based rehabilitation is a priority area for us. We are engaged in many countries trying to initiate and enhance prison-based rehabilitation programs, ranging from education to vocational training to work programs. Healthcare services, also a priority. Very often healthcare services are very poor and the state of the prison community is very poor, so we try to assist with refurbishing and enhancing the capacity of health clinics and providing training for healthcare professionals.

Since you were asking about how to get the buy-in from prison staff, capacity building for prison staff is a core element of any of our technical assistance activities. And we do not get tired of saying that despite all the constraints that you may face in terms of infrastructure, in terms of financial limitations, et cetera, when it comes to it, your most element is your prison staff, the most important element in any prison system. So we provide a lot of training on different aspects of prison management to prison officials, including training of trainers to render this sustainable.

Ideally, also coupled with a lot of support for prison staff training academies. Prison staff training in reality often still consists of a very, very much for law enforcement based training, very close to the training of police officers. We keep on saying prison officers. And we do have a distinct mentality there but it is very different from other law enforcement officers. So that's why this focus on prison staff training.

Finally, one area that I equally consider very important is that we observe that in many cases prison administrations are left alone with the task of providing for safety, security, and rehabilitation in prisons. And the point that we continuously make is that other governmental entities also have a very important role to play in fostering the rehabilitation of offenders in particular.

So we very much, we very often try to convene meetings on a broader scale, inviting representatives from the Ministry of Health, Ministry of Labor, Ministry of Education. All of them have a role to play in supporting the prison administration in doing their job.

So this, in a nutshell, would be the sort of main areas that we look at when we deal with prison reform technical assistance projects.

Mr. HULTGREN: Let me follow up on a couple things, if that is all right, that you mentioned there.

One is that you talked a little bit about certain prison populations that might have particular vulnerabilities or challenges. How do you identify them and how do you work with, again, those prison leaders to recognize that and make adjustments? Are they willing to do that, I guess?

And then, also following up on the healthcare demands, how is that going? Again, I am sure it would take some outside resources or entities where a lot of these prisons aren't set up to also be healthcare providers, so, wondering how that is going and if there is a willingness from outside medical providers to be a part of some of the health reform that is necessary if we are actually have prison reform?

Mr. MEISSNER: Thank you very much. I will start with your first questions, first question related to categories of prisoners with special needs. And I am very grateful that you are asking this question because in the public discourse prisoners are represented as a sort of homogeneous group, a uniform block of prisoners. And this could not be further away from reality.

As I mentioned in my introductory statement, prisoners are a very diverse population, both in terms of the risks that they may pose, but also in terms of the specific needs that they may have and the different way they will react to imprisonment. And I just want to outline a couple of special categories in this regard.

First of all, we are talking about specific needs related to age, juveniles obviously, younger prisoners that are exposed to certain risks in prisons and that will have special needs. But we are also, and that is often not mentioned, increasingly talking about the challenges that older prisoners face, and particularly in view of long-term sentences. So this is also a group that needs to be taken into account.

We are talking about specific categories due to gender. The gender-specific needs of women prisoners have already been mentioned.

We are talking about specific needs resulting from disabilities, prisoners with either mental or physical disabilities and how prison administrations can ensure that they have a possibility to be involved in the prison regime.

We are also talking about specific needs related to origin and background. In a large number of jurisdictions, foreign prisoners represent a very high share of the prison population. In others, it is members of ethnic minorities that are disproportionately represented in prisons. So here we face issues around language, about cultural practices, about continued contacts with families, counselors, et cetera.

And finally, another group I would like to highlight is prisoners that undergo a specific form of a sentence, for example, long-term prisoners or prisoners sentenced for life. So here we have issues around institutionalization. How can you keep up the hope of those prisoners? And, unfortunately, we face here sometimes situations where this group in particular is being deprived of any possibility to continue to benefit from rehabilitation or social reintegration efforts.

So it is there is certainly a need to raise awareness amongst prison officials about these groups of prisoners that have specific needs.

We also work very closely with prison administrations for them to be able to assess the profile of their prison population more clearly. Upon admission, information needs to be collected about each prisoner in order to be able to say, well, we have this number of prisoners belonging to a certain category and we need to take care of them.

According to my experience, it is not necessarily the case that they, that prison officers do not want to cater for the specific needs of prisoners. Very often they don't have the possibility to do so because they lack time, they lack equipment, or they lack infrastructure. So, it is important in the context of the technical assistance programs that we deliver a lot of change if possible to assure the cooperation in that regard.

Mr. HULTGREN: Thank you.

Ms. Anderson, I wonder if I could ask a couple questions to you. One of the greatest heartbreaks that I continue to face is human trafficking. And wondered if you

could maybe talk a little bit about the intersection of trafficking in persons and international prison reform as it relates to women?

I know many countries are still placing trafficked women into prison, even though such women are themselves victims of crime. How can prison reform be linked to improvements in rehabilitation and bringing back hope again for trafficking victims?

Ms. ANDERSON: I will pick up on Philipp's point on the necessity of disaggregating the prison population and taking into account the differences between them. And I think that holds true for victims of trafficking as well.

There is a need to try to identify these women and the specific, the specific risks that they face on the one hand, and the specific needs that they may have on the other hand, including access to interpretation in whatever their local language might be if they happen to find themselves in prison in the country to which they were trafficked as opposed to their country of origin;

Specific healthcare needs that they may have as a result of being trafficked for sexual exploitation or even forced labor;

Needs that they may have in terms of support for migration processes. If they are intending to stay in their destination country or if they are being transported back to their country of origin there is always a need for legal services in that regard.

And I think that the main need is for the social-economic reintegration programs to ensure that they have something, when they are released from prison that they have something to fall back on so that they don't end up either falling victim unwittingly to traffickers or knowingly getting involved with trafficking networks. It is both situations, but it is mostly a result of economic necessity.

So I think, you know, the whole series of programs is important. And it is important that we know, that we understand the profile of women who are victims of trafficking who also find themselves imprisoned.

Mr. HULTGREN: I wonder if I could get your opinion on the World Prison Brief showed an increase of 50 percent in the number of women incarcerated since 2000, a rate of increase that is more than double that of experience by men in the same period. How can you explain this discrepancy? And is there more to it that we ought to be aware of?

Ms. ANDERSON: It is mainly a result I think of increasingly harsh, harsh policies related to drugs. As policies on the issue of drugs have grown more and more harsh, more and more women have been imprisoned for, as I said, sort of low-level, non-violent crimes related to microtrafficking, to small scale sales. And that is I would say the main factor responsible for the increase in incarceration of women over the last 20 years or so.

We have done quite a bit of work from the Organization of American States, in collaboration with the Washington Office on Latin America and other organizations, on precisely that, on policy formulated to women, women drug policy and incarceration, and looking at things like alternative sentencing, house arrest. I can't remember the name in English, *liberté conditionnelle*. Anyway, let's see, yeah, conditional release. Thank you. And other, other measures that may be applied to these women who become involved in drug-related crimes, mainly out of economic necessity and a need to provide for their, their families, their children, other dependent family members, and who are generally not high up in the chain in terms of the drugs industry.

They are not the Queen of the South or anything like that. They are just, they are low level mules who are not, they are not the main beneficiaries of the drugs trade. And they would benefit far more from, again, social and economic reintegration programs that gave them a real possibility of providing for their families in the future than just prison sentence after prison sentence.

Mr. HULTGREN: Following up on that a little bit, in my district, I know many, almost every other district, drug courts have become an important part of our judicial system. Are you seeing that approach accepted in other places around the world as well? What can we do to, I guess, to encourage that, or recognizing? And then, I guess, making sure that treatment is happening as well, or sometimes that is the greater need for these people is to get the treatment and care that they need.

Ms. ANDERSON: Yes.

Mr. HULTGREN: So.

Ms. ANDERSON: I mean, I should point out that the majority of women are not imprisoned for crimes related to addiction. It does happen. But the majority of women are not, are not necessarily struggling with addiction problems. They are there more for microtrafficking and other related crimes.

The drug courts model has certainly been pushed to other countries and is being replicated in a number of countries throughout the Americas. To the extent that it judicializes what is essentially a healthcare problem, it has some human rights implications that are being explored at the OAS at the moment.

To the extent that it does give people who are struggling with addiction a real possibility of healthcare treatment, there are positive aspects to it as well. It is not as relevant to the situation of women incarcerated for drug-related crimes as it may be for men, just because it is not the majority of the population.

Mr. HULTGREN: Okay, thank you.

I can wrap up with one last question for each of you and then we will switch to our second panel. But this is challenging work that you are involved in. And just wonder how you, if there is one thing that gives you hope, maybe a situation or an example of something where you are seeing some real progress that you can get excited about that kind of gives you the energy to keep moving forward?

And then also, if there is a thought or two that you have. I see part of my responsibility, my co-chairman shares this, that we want to get information to share with the rest of our colleagues of the impact that we can have as members of congress to encourage right reform. So just wonder, briefly, if you can talk about what can we do as Congress to encourage right reform.

So I think we will start, Ms. Anderson, if you would start and then, Mr. Meissner, if you would finish up.

Ms. ANDERSON: We have seen a number of positive examples throughout the region in terms of just recognizing the differential effect on women of incarceration and trying to develop targeted policies to address their specific needs. So a significant number of countries in the region have at least started paying attention to the issue, which is an important first step, and making policies in that regard.

As congresspeople, I would recommend first and foremost pushing for better data, sex disaggregated data and data that's disaggregated by other factors like ethnicity, country of origin and things like that, people with disabilities, et cetera.

And then I would say really keeping the focus on rehabilitation, certainly in the case of women, because I think these are the people that would benefit most from rehabilitation efforts are the people that are in prison because they fell into something out of economic necessity rather than any of the other reasons people get involved in more violent crimes. So I would, keeping sort of at the center of prison reform efforts the possibility, the hope of reintegration of some of these inmates.

Mr. MEISSNER: Thank you. And my apologies, Representative. I missed to answer a second element of your question which you asked me previously which was related to healthcare. So please allow me just to add one, one more sentence on your question about penitentiary healthcare and the challenges that many prison administrations face in this regard. I will be very brief.

I just want to make the point that in many prison systems, obviously, the responsibility for healthcare remains with either the Ministry of Justice or the Ministry of Interior, depending on who is in charge of the whole prison administration. And this in itself sometimes poses problems in terms of ensuring what we call equivalence of care any prisoner should have: access to the same type of quality services that prisons outside have access to, due to the fact that the penitentiary healthcare system is insufficient in linkage to the public healthcare system outside.

This then cascades into a lot of other questions around personnel, which kind of doctor, nurse, physician, or psychologist wants to work in a prison; what are the conditions of healthcare work in prisons; how is it paid, et cetera. So I think it is important to recall this very issue about the linkage of penitentiary healthcare to the public healthcare system outside.

You asked about what is encouraging us in our work. I need to come back to the Nelson Mandela Rules; it certainly has created tremendous momentum which we can observe in many Member States, a lot of interest to follow up, to assess their compliance, to improve their compliance. So the number of technical assistance requests we receive, and the openness of Member States to work with us and other partners on improving their compliance with Nelson Mandela Rules has definitely increased.

I also want to make a point, we don't have a prisoner rights day at the international level yet but we do have now 18th of July, which is Nelson Mandela International Day. And you may recall that when the Nelson Mandela Rules were adopted, the General Assembly also made a decision to extend the scope of Nelson Mandela International Day, which is now also to be used in order to promote humane conditions of imprisonment, to make a point that prisoners continue to be part of society, and to value the work of prison staff as a social service of great importance.

And I think when you were asking us about what you can do, I think this is a crucial point, not only on 18th of July but throughout the year, to raise awareness in society about the very point of the Nelson Mandela Rules which I have mentioned, that it is also in the interests of society to foster the rehabilitation of prisoners.

In a lot of countries where we work, one issue is certainly that society at large is not taken along when it comes to prison reform efforts, and especially in low resource environments where the resources are scarce to start with, we hear a lot that we didn't commit any crime, why are you now asking us to invest in prisons?

So this explanation that it is not only about giving resources to prisoners, it is about, also about public safety and public health, this is a point that we would very much appreciate if it could come from the policy side as well more strongly.
Thank you.

Mr. HULTGREN: Again, thank you so much. We will make a switch with our panels now, but really appreciate your testimony.

Welcome to our second panel. We are grateful for your involvement as well. I have got two great panelists on our second panel also. Craig DeRoche is a friend and someone I am grateful for your work and passion for these issues. Craig is Senior Vice President for Advocacy and Public Policy for Prison Fellowship.

We are also really honored to be joined by video, long distance away, Azamat Shambilov, Regional Director, Office for Central Asia, Penal Reform International. And he is joining us from Kyrgyzstan, live via video. So, thank you so much for being here as well.

I am going to recognize Craig first for his testimony and then we will hear from Azamat, if that is all right. And then I will have some questions for each of you. So, Craig, if you could start with your testimony.

STATEMENTS OF CRAIG DeROCHE, SENIOR VICE PRESIDENT FOR ADVOCACY AND PUBLIC POLICY, PRISON FELLOWSHIP; AND AZAMAT SHAMBILOV, REGIONAL DIRECTOR, OFFICE FOR CENTRAL ASIA, PENAL REFORM INTERNATIONAL

STATEMENT OF CRAIG DeROCHE, SENIOR VICE PRESIDENT FOR ADVOCACY AND PUBLIC POLICY, PRISON FELLOWSHIP

Mr. DeROCHE: Thank you, Mr. Chairman. It is an honor and a privilege to be here. And thank you for the very heartfelt comments about Prison Fellowship. And I want you to know, Mr. Chairman, that Emily Colson was intending on being here today but she had to get back to Boston. And she was in town for a Colson Center board meeting. And she sends to you and the entire commission her best.

Mr. HULTGREN: Thanks. And if you would please send my best to the Colson family. Let them know I continue to think about them. So, thank you. Mr. DeRoche. Yes. Thank you.

Prison Fellowship was born out of the experience of the late Charles Colson, aide to former President Richard Nixon, who was convicted of a felony in the Watergate-related offense. While he was incarcerated for seven months he saw the experience and difference that his faith in Jesus could make in people's lives. And he felt that a real solution in spiritual growth and development could be a solution to crime.

So when he entered freedom after his prison stay, he endeavored to reach out to men and women behind bars with an opportunity for themselves to transform their lives. And he founded Prison Fellowship in 1976. Today Prison Fellowship is the largest Christian ministry outreach to prisoners, former prisoners, and their families in America, with 365,000 prisoners that we will serve in one capacity or another this year; 11,200 volunteers help us do that. And our staff and volunteer academies, which we have 77 of in 28 states.

Just last month we had our Angel Tree program where it is Christmas for the prisoners facilitated by volunteers through the local church and Prison Fellowship. We did over 250,000 of those. And it is estimated that more than 150,000 volunteers participate during just the month of December in that process.

So it is just a real blessing to be here and really to testify before this commission and distinguished guests in conjunction with Prison Fellowship International, which was founded in 1979, to extend the mission work beyond the United States and to bring God's good will of alleviating suffering of prisoners and their families worldwide. And in 1983, Prison Fellowship International received the special consultative status with the Economic and Social Council of the United Nations.

Today, Prison Fellowship International is the largest and most extensive association of national Christian ministries working within the criminal justice field in the world. And each of the transdenominational national ministries is grounded with indigenous leadership and local funding. This grassroots presence enables Prison Fellowship International to minister to prisoners and their families in culturally relevant ways.

Much has been said, Mr. Chairman, about the Nelson Mandela Rules and the status of international prison conditions. And due to the constraints of the time that I have I will skip through this. But to acknowledge that in our testimony, the written testimony we have submitted, we talk about the growth of women in prisons with the same citations and concerns. We talk about the number of individuals in prison. And we draw for the commission's benefit the European countries such as Norway, Denmark, and Germany that are often highlighted as standout examples of prison systems that more closely resemble an individual's home than a prison, and the results that come from that.

And really deliberately inserted that because I have toured the German prisons -- I will talk a little bit more about that in our recommendations -- but as a pathway to go towards a solution for crime.

In America, our federal system is currently exceeding a hundred -- capacity by 114 percent, while most states have a prison population slightly below their operational capacity. Illinois has one of the worst. Around the country, though, it is, or around the world it is much worse. Haiti has a prison population that exceeds its official prison capacity by 455 percent. El Salvador exceeds it by 348 percent.

The overcrowding is not restricted to the Western Hemisphere, with the Philippines, Chad, and Grenada also facing extreme overcrowding in their prisons of 436 percent, 232 percent, and 235 percent respectively. Overcrowding can result in increased illness, death, suicide, and may drive violence. For example, the central prison in Roumieh, Lebanon faced a violent riot after operating at almost double capacity.

In 2013, Prison Fellowship International did a survey of the affiliates around the globe. In 100 of the 125 countries that have Prison Fellowship International affiliates, 79 percent of them had responded and engaged in activities because of overcrowding and lack of services that affected the health and welfare of the people where Prison Fellowship International's NGO had to provide basic human services into the prisons.

In addition to the poor conditions of neglect, individuals held in prisons around the world also face deliberate physical, psychological, and sexual mistreatment, as we have heard from some of the other testimony today. Mistreatment is sometimes used as a means of exerting control or punishing individuals who are incarcerated. In North Korea, for example, prisoners are routinely subject to severe beatings, electric shock, and confinement in small, immobile cells.

In 2012, the United Nations Assistance Mission in Afghanistan reported that it found evidence that in more than a half of 635 detainees interviewed experienced torture or ill-treatment. Incidents of mistreatment not only violate human rights, but undermine the credibility of the justice systems in these countries.

This being said, Mr. Chairman, I wanted to highlight in my testimony today to some of the promising aspects that are evolving in prisons around the world. And while the status of prison conditions seem overwhelming, there are things like Prison Fellowship's Zambia work that manages clinics to teach prisoners about issues such as hygiene, nutrition, and HIV. Prison Fellowship Zambia team provides informational leaflets, translated into a variety of languages, in order to overcome the barriers of illiteracy. And dramatic presentations and music are often used.

The drama group visits prisons and presents health messages using singing, drums, acting, and picture demonstrations. And Prison Fellowship volunteers multiply their reach by training prisoners as peer educators to run individual and group discussions on subjects like HIV prevention. And many peer educators are HIV positive themselves and they work to help overcome the stigma of the disease.

In addition, Prison Fellowship Zimbabwe worked tirelessly to repeal a law that prohibited children from visiting incarcerated parents before 18 years of age, as something that contributed to the breakdown of families.

And maybe most importantly for the testimony today, for a highlighted positive development would be that in the growth of restorative justice around the world, Mr. Chairman. The modern restorative justice movement began about 30 years ago, but it draws from much older forms of justice from the early Middle Eastern and Mediterranean civilizations that shaped Western culture. These approaches to justice are still being used by indigenous peoples around the world.

In July 2002, the United Nations Economic and Social Council adopted the "Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters," and Prison Fellowship was influential -- was an influential NGO in helping develop these principles. And it approaches crime in an entirely different way, including a preventative program before crimes occur, as well as an alternative to traditional criminal justice sentencing, as a mediation process as well in post-sentencing when desired by the victim.

Restorative justice can be everything from apologies, when voluntary and genuine; agreement to change future behavior; compensation or restitution involving the person agreeing to pay for at least some of the damage he or she has caused. This can be done by paying money, providing services, returning or replacing property, or any other way in which the parties agree.

What we have seen in restorative justice, Mr. Chairman, is that making amends when you involve the victim and the person that has caused the harm, that very creative ways come to the surface, and they can be very innovative. And to that end, restorative justice has demonstrated that it is more effective than the results of traditional criminal justice processes.

Researchers reviewing hundreds of studies that compared restorative justice with traditional criminal justice found the following:

That is lower repeat offending, particularly individuals involved with violent crime and adults;

It reduces post-traumatic stress of victims;

It costs the government less when used as a diversion from prison;

It leaves victims and individuals responsible for the crime more satisfied;

And it doubles the number of cases brought to justice because it is much faster.

Because of this proven record, more and more countries are relying on restorative justice as a key part in response to their crime. For example, the first country to use restorative justice as a major part of its system is New Zealand, who now for 25 years has handled their youth cases entirely through a restorative justice process. They are now extending that to be an integral part of the adult system.

Most restorative justice processes take place outside of prisons. But there are some innovative initiatives now that are taking place in prisons. And Prison Fellowship International's Sycamore Tree Project is active in 34 countries that bring groups of crime victims in the prison to meet with groups of unrelated prisoners for eight weeks. The participants talk about the harm caused by the crime, and the meaning and importance of a confession, forgiveness, making amends, and reconciliation.

It has worked very well. And the corrections official in charge of an overcrowded prison described the facility as calmer and easier to run in the four months since Sycamore Tree had started in just one of the countries where this was deployed.

We have our recommendations here, Mr. Chairman, on improving international prison conditions and criminal justice reforms that we, that this committee and the

Congress should look to incorporate these issues into ongoing discussions with international diplomats and dignitaries. And should look to bolster programs that provide funding to countries who lack the resources to ensure proper conditions.

We recommend that at the same time we highlight promising practices and excellent corrections professionals around the globe, offering to come alongside corrections staff who have a vision for promoting humane, safe, and transparent and effective prisons.

And one way to achieve this goal, Mr. Chairman, is we would encourage the Congress to encourage international delegations with relevant government and non-government actors, particularly corrections professionals, to tour prisons and other criminal justice entities for the purpose of sharing ideas, challenges, and best practices across jurisdictions.

And to take a broader approach to the impact of incarceration, recognizing the ripple effect on the prisoners' children and families, victims, and communities. To help build that infrastructure through time.

And to promote the use of restorative justice as an alternative to traditional juvenile criminal justice practices, and a method of dispute resolution inside prisons by funding and highlighting more expansive programming, research, and marketing of best practices and outcomes.

And, Mr. Chairman, for the record I would like to acknowledge the wonderful support of my dear friend and colleague Dan Van Ness, who founded Prison Fellowship's advocacy outreach called Justice Fellowship with Chuck Colson, who is in the process of retiring from Prison Fellowship International but contributed largely to this testimony today. And I thank you for the privilege of providing it.

[The prepared statement of Mr. DeRoche follows]

PREPARED STATEMENT OF CRAIG DeROCHE

**Testimony of Craig DeRoche
Senior Vice President of Advocacy and Public Policy
Prison Fellowship USA®**

**Before the Tom Lantos Human Rights Commission
Advancing Human Rights through International Prison Reform Hearing
January 17, 2018**

Introduction

Prison Fellowship and Prison Fellowship International were born out of the experience of the late Charles Colson, a former aide to President Nixon. Convicted for a Watergate-related offense, Colson served seven months in prison. During that time, he saw and experienced the difference faith in Jesus makes in people's lives. He became convinced that the real solution to crime is found through spiritual renewal.

When Colson walked into freedom, he had a new mission in life: To reach out to men and women behind bars, and give them the opportunity to turn their lives around through Christ. In 1976, Colson founded Prison Fellowship USA, which is today the nation's largest Christian nonprofit serving prisoners, former prisoners, and their families, and a leading advocate for criminal justice reform. As Senior Vice President for Advocacy and Public Policy for Prison Fellowship USA, I get to bring my experience as former speaker of the House in Michigan to bear on the work we do to advance restorative solutions in the context of the justice system in the United States.

Prison Fellowship USA's prison events, classes, and programs reach more than 365,000 prisoners each year. We have over 11,200 Prison Fellowship volunteers across the country who make it possible to serve people in prison and over 300,000 children through our Angel Tree program that provides Christmas gifts on behalf of incarcerated moms and dads. Located in 78 prisons in 26 states, Prison Fellowship Academies are our most intensive programs, designed to address criminogenic needs including anti-social cognition, anti-social companions, anti-social personality and temperament, family and marital relationships, substance abuse, employment, education, and recreation activities.

In 1979, Colson founded Prison Fellowship International, extending the mission and work beyond the United States, and following God's call to alleviate the suffering of prisoners and their families worldwide. In 1983, Prison Fellowship International received special consultative status with the Economic and Social Council of the United Nations.

Prison Fellowship International is the largest, most extensive association of national Christian ministries working within the criminal justice field. Each of the transdenominational national ministries is grounded in indigenous leadership and local funding. This grassroots presence enables Prison Fellowship International to minister to prisoners and their families in culturally relevant ways. Today, given the focus on international prison reform of this hearing, I have the

population.⁷

In America, our federal system is currently exceeding its capacity by 114 percent, while most states have a prison population that is just slightly below their operational capacity.⁸ Illinois has the worst overcrowding of state systems in the country at 138 percent, but this pales in comparison to prison overcrowding in other countries.⁹ Haiti has a prison population that exceeds its official prison system capacity by 455 percent and El Salvador exceeds its system capacity by 348 percent.¹⁰ This overcrowding is not restricted to the Western Hemisphere, with the Philippines, Chad, and Grenada also facing extreme overcrowding in their prisons of 436 percent, 232 percent, and 235 percent respectively.¹¹

Alexander McLean, the founder of the African Prison Project, reports that:

In countries in sub-Saharan Africa such as Uganda and Kenya, the population has grown massively in the last few decades. As a result, there has been huge growth in the number of people being sent to prison, and prison capacity simply has not kept up. Prisons are hugely overcrowded. This overcrowding puts a strain on all the resources. It means that prisoners often are not well fed and cannot always lie down to sleep in their cells at night. The prison service is under huge pressure and does not have sufficient funding to meet prisoners' needs.¹²

Overcrowding can result in increased illness, death, suicide, and may drive violence.¹³ For example, the central prison in Roumieh, Lebanon faced a violent riot after operating at almost double capacity.¹⁴

In 2013, Prison Fellowship International conducted a survey of its affiliates, asking whether they had engaged in activities to address poor prison conditions by providing gifts or services to prisoners, advocacy, or other interventions. 100 of the 125 affiliates responded, and seventy-nine percent of them said that they had done so in the last 12 months.¹⁵ This response demonstrates

⁷ Collins Musona, *Creating Healthier Prisons*, 104 FOOTSTEPS, 1, 8 (2018).

⁸ E. Ann Carson, *Prisoners in 2016*, Bureau of Justice Statistics (January 2018), <https://www.bjs.gov/content/pub/pdf/p16.pdf>.

⁹ Carson, *supra* note 8 at 21.

¹⁰ Institute for Criminal Policy Research, *Highest to Lowest - Occupancy level (based on official capacity)*, Institute for Criminal Policy Research (2017), <http://www.prisonstudies.org/world-prison-brief-data>.

¹¹ Institute for Criminal Policy Research, *supra* note 8.

¹² Zoe Murton, *Transforming Africa's Prisons*, 104 FOOTSTEPS, 1, 6 (2018).

¹³ Esther van Ginneken, et al., *An ecological analysis of prison overcrowding and suicide rates in England and Wales, 2000–2014*, 50 Int'l J. L. Psychiatry 76 (January 2017); Craig Haney, *The Wages of Prison Overcrowding: Harmful Psychological Consequences and Dysfunctional Correctional Reactions*, 22 Wash. U. J.L. & Pol'y 265 (2006); Steven D. Levitt, *The effect of prison population size on crime rates: evidence from prison overcrowding litigation*, 111 Q. J. Econ. 319 (May 1996).

¹⁴ Reuters, *Inmates riot at Lebanon prison, hold guards*, Reuters (April 5th, 2011), <https://www.reuters.com/article/us-lebanon-prison-riot/inmates-riot-at-lebanon-prison-hold-guards-idUSTRE7343KJ20110405>.

¹⁵ Email correspondence with Dan Van Ness, Special Advisor on Restorative Justice for Prison Fellowship International (January 13, 2018).

both the prevalence of poor prison conditions worldwide and the importance of government and non-governmental organizations like Prison Fellowship affiliates partnering in response.

In addition to poor conditions and neglect, individuals held in prisons around the world also frequently face deliberate physical, psychological, and sexual mistreatment. Mistreatment is sometimes used as a means of exerting control or punishing individuals who are incarcerated. In North Korea, prisoners are routinely subject to severe beatings, electric shock, and confinement in small immobile cells.¹⁶ In 2012 the United Nations Assistance Mission in Afghanistan reported that it found evidence that “more than half of 635 detainees interviewed experienced torture and ill-treatment.”¹⁷ Incidents of mistreatment not only violate human rights but undermine the credibility of the justice systems within such countries.

Restorative Justice and Other Promising Practices

While the status of international prison conditions can seem overwhelming, there are some promising practices and reforms I would like to highlight. For example, my colleagues at Prison Fellowship Zambia manage mobile clinics to teach prisoners about issues such as hygiene, nutrition, and HIV. The Prison Fellowship Zambia team provides informational leaflets translated into a variety of languages, however, in order to overcome the barrier of illiteracy, dramatic presentations and music are also used. A drama group visits prisons to present health messages using singing, drums, acting and picture demonstrations. Prison Fellowship volunteers multiply their reach by training prisoners as peer educators to run individual and group discussions on subjects such as HIV prevention. Many peer educators are HIV-positive themselves and have helped reduce the stigma of living with the disease.

Additionally, my colleagues at Prison Fellowship Zimbabwe worked tirelessly to repeal a law that prohibited children from visiting their incarcerated parents before 18 years of age. The story of siblings Ronald, Tsitsi, and Precious demonstrates the real-life impact of this reform. When their father was incarcerated, their mother suffered a debilitating stroke. Their mother moved in with her sister, who could provide care for her, but left the children to squat illegally in a two-room hut. “The most frightening thing was mum was not around,” recalls 13-year-old Ronald.¹⁸

Now enrolled in Prison Fellowship International’s child sponsorship program, the family’s situation has dramatically improved. Prison Fellowship Zimbabwe helped the children apply for government-funded housing, re-enroll in school, and the family receives regular food supplements. And now, with the visitation ban reversed, they are able, after over eight years of separation, to nurture their relationship with their father and begin a journey toward emotional healing.

¹⁶ Hollie McKay, *Defectors from North Korea describe concentration camp, daily life*, Fox News (June 21st, 2017), <http://www.foxnews.com/world/2017/06/21/defectors-from-north-korea-describe-concentration-camp-daily-life.html>.

¹⁷ Bureau of Democracy, Human Rights and Labor, *Report on International Prison Conditions*, U.S. Department of State (May 22nd, 2013), <https://www.state.gov/documents/organization/210160.pdf>.

¹⁸ Prison Fellowship International, *A Precious Reunion in Zimbabwe*, PARTNERLINK, 1, 1 (Fall 2017).

Finally, I want to spend some significant time discussing a promising approach and Prison Fellowship International's area of expertise: restorative justice. The modern restorative justice movement began around 30 years ago, but it draws from much older forms of justice from early Middle Eastern and Mediterranean civilizations that shaped Western culture. Those approaches to justice are still used by indigenous peoples around the world.

The United Nations has encouraged countries to use restorative programs. In July 2002, the United Nations Economic and Social Council adopted "Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters" to help countries adopt restorative justice into domestic criminal justice systems in ways that continue to respect the human rights of people responsible for crime and their victims.¹⁹ Prison Fellowship was an influential non-governmental organization working with the UN to develop and adopt these principles.

Restorative justice approaches crime differently than traditional criminal justice systems, recognizing the significance of crime goes beyond the law that has been broken and placing emphasis on the harm that has been caused. Restorative justice programs can be applied at a variety of stages, including as a preventative program before the crime occurs, as an alternative to the traditional criminal justice sentencing, as a mediation process post-sentencing where desired by the victim, and even as a dispute resolution method between prisoners in correctional facilities. Prison Fellowship International's Special Advisor on Restorative Justice Dan Van Ness estimates that the restorative processes are being used in at least 80 and likely over 100 countries, sometimes within the criminal or juvenile justice system, but also applied in other contexts such as school discipline.

When used as an alternative to the traditional criminal justice sentencing, the case is referred by the police officer, prosecutor, or judge at some point in the process to a trained, impartial restorative justice facilitator. The facilitator explains the restorative process to the victims and person responsible for the crime and invites them to participate. If they agree to do so, they meet together with the facilitator to discuss what happened and how to respond. Participation in restorative justice is always voluntary. The purpose of the meeting is to provide a safe environment in which those directly impacted by the crime can talk about what happened, what the injustice was, and how the responsible party can make things right.

The agreements reached by victims, the person responsible for the crime, and the other participants demonstrate a recognition that the person who committed the crime has harmed the victim and community and that he or she must accept responsibility. There are a variety of ways for the responsible person to make amends:

- Apologies, when voluntary and genuine, can be very powerful and meaningful to victims. Restorative justice meetings often begin with a formal apology by the responsible party, but after listening to the victim about the impact of their actions, the responsible person often extends a second, more significant and personal apology.
- An agreement to change future behavior. For example, returning to school, participating in drug treatment, etc. Victims participating in restorative justice meetings often want both an apology and changed behavior.

¹⁹ See ECOSOC Res. 2000/14, U.N. Doc. E/2000/INF/2/Add.2 at 35 (2000).

- Compensation or restitution involves the responsible person agreeing to pay for at least some of the damage he or she has caused. This can be done by paying money, providing services, returning or replacing property, or in any other way the parties agree.

Parties to restorative justice may also develop additional ways of making amends that are unique to their circumstances and needs. Some of the above-listed forms of amends can be ordered by a judge. The judge may send the case to the restorative justice process and request the parties provide suggestions of what the restorative outcomes should be. As long as the parties' proposal advances the public interest, it could be incorporated into the judge's sentence.

Restorative justice is often more effective than the results of the traditional criminal justice processes. Researchers reviewing hundreds of studies that compared restorative justice with traditional criminal justice found the following:

- Restorative justice lowers repeat offending for many people, particularly individuals involved in violent crime and adults;
- Restorative justice reduces post-traumatic stress in victims;
- Restorative justice costs the government less when used as a diversion from prison;
- Restorative justice leaves victims and individuals responsible for crime more satisfied that justice was done; and
- Restorative justice doubles the number of cases brought to justice because it is much faster.²⁰

Because of this proven record, more and more countries are relying on restorative justice as a key part of their response to crime. For example, the first country to have used restorative justice as a major part of its justice system was New Zealand. For 25 years, New Zealand has handled all of its youth cases through restorative justice except for those involving serious violence. As a result, the country has been able to close courts and detention centers and youth crime rates have not risen during that time. New Zealand has now extended restorative justice as an integral option for judges to choose when appropriate in the adult criminal justice system.

While most restorative justice processes and programs take place outside prisons, there have been some innovative initiatives to explore how restorative justice can be applied in prisons. For example, some prisons offer paid work opportunities for incarcerated individuals with some of the proceeds going to their victims. Prisons in North America and Europe offer mediation meetings conducted by a trained facilitator after careful preparation of the prisoner and the victim. Additionally, some prisons have trained prisoners and prison officials in conflict resolution to help reduce conflicts and some have adapted their disciplinary programs so that they are more restorative and less adversarial in practice and objective.

Finally, victim awareness and empathy programs are designed to help prisoners understand the impact of crime on victims. For example, Prison Fellowship International's Sycamore Tree Project[®] brings groups of crime victims into prison to meet with groups of unrelated prisoners for eight weeks. The participants learn about the harm caused by crime and the meaning and importance of confession, forgiveness, making amends, and reconciliation.

²⁰ Lawrence W. Sherman & Heather Strang, *Restorative Justice: The Evidence*, The Smith Institute (2007), available at http://www.iirp.edu/pdf/RJ_full_report.pdf.

Prison Fellowship International has witnessed powerful transformation through the Sycamore Tree Project, which operates in 34 countries. Victims begin to see prisoners as people, not monsters, while prisoners begin to understand the human cost of their actions. In Lebanon, the program is transforming the prison culture. The corrections official in charge of an overcrowded prison described the facility as calmer and easier to run in the four months since Sycamore Tree Project started. “It had a disproportional effect because prisoners are taking what they learned and sharing it with other prisoners,” said Prison Fellowship International’s Dan Van Ness.²¹ Lebanon’s Sycamore Tree Project now has a course waiting list of 100 prisoners.

Recommendations

Prison Fellowship recommends the following as means of improving international prison conditions and criminal justice systems:

- Where there are known human rights violations of prisoners in other countries, incorporate these issues into ongoing discussions with international diplomats and dignitaries. Bolster programs that provide funding to countries who lack resources to ensure appropriate conditions.
- At the same time, we should highlight promising practices and excellent corrections professionals across the globe, offering to come alongside corrections staff who have a vision for promoting humane, safe, transparent, and effective prisons.
 - One way to achieve this goal is to encourage international delegations with relevant government and non-government actors, particularly corrections professionals, to tour prisons and other criminal justice entities for the purpose of sharing ideas, challenges, and best practices across jurisdictions.
- Take a broader approach to the impact of incarceration, recognizing the ripple effect on prisoners’ children and families, victims, and communities. Build and strengthen infrastructure to provide resources and support for all those impacted by crime and incarceration.
- Promote the use of restorative justice as an alternative to the traditional juvenile or criminal justice process and as a program and method of dispute resolution inside prisons by funding and highlighting more expansive programming, research, and marketing of best practices and outcomes.

²¹ Prison Fellowship International, *supra* note 18 at 2.

Mr. HULTGREN: Thank you, Mr. DeRoche. We appreciate your work.

Next, grateful to have Mr. Shambilov joining us live via video from Kyrgyzstan. Thank you for joining us. First you have to tell us what time it is where you are at and then we would love to hear your testimony.

Thank you so much for joining us.

STATEMENT OF AZAMAT SHAMBILOV, REGIONAL DIRECTOR, OFFICE FOR CENTRAL ASIA, PENAL REFORM INTERNATIONAL

Mr. SHAMBILOV: Hello, everyone. Greetings from Kyrgyzstan where it is already 3:30 in the morning.

Dear Congressmembers, participants of this important hearing that has to do with the people, human beings issue, as we discuss today. I would like to highlight a bit about Prison Reform International. PRI was established 30 years ago almost by world leading human rights activists, lawyers. And some of them were also linked to the life in prison, as one of the founding members was imprisoned for 17 years.

I would like to talk today about issues of solitary confinement, children in detention, juvenile justice. It is very hard for me to discuss this issue through Skype or through the new technology because I see these people every day. I work with them. I see the conditions. I work with education. And prison destroys the life, family, it takes away the happiness, it takes away the childhood, it takes away the parents.

As a graduate organization, and we have additional also in many countries, I focus mainly on reintegration, torture prevention, also the issues of solitary confinement and children who are directly linked to mainly family issues. Many of the children who are in prison sentence for more than seven years, they end up in adult prisons for another ten years, which shows the lack of the education program in some countries leads to increasing number of prison population.

Extensive use of solitary confinement in prisons around the world is becoming an increasing issue. Some form of solitary privation from rates of the prison population is used almost everywhere as punishment for breaches of prison discipline or regime. However, many states use solitary confinement, more recently for longer periods of time. They testify they use the solitary confinement in a number of different ways:

It may be use of discipline in punishment for convicted prisoners; to the so-called vulnerable prisoners; or considered to help prison staff to manage certain individuals. It is used to isolate a detainee during the pre-trial stage of investigation, often as part of corrective interrogation. And it can be used to lock away children who have or are perceived to have mental illness.

While there is no universally agreed definition of solitary confinement -- often also called segregation, isolation, lockdown, or supermax -- it is commonly understood to be the physical isolation of individuals who are confined to their cells for 22 to 24 hours a day, and allowed only minimum meaningful interaction with others. Contact with family or visitors often restricted or denied altogether, despite the fact that contact, with the family in particular, has been shown to be an important factor for successful reintegration.

The routine use for solitary confinement has been growing, and is becoming an increasingly common feature of high-security or supermax bigger prisons, designed to hold prisoners who are deemed high risk or difficult to control. Restricted housing, usually in many countries in the world, particularly in Central Asia, in some Asian countries, in Africa solitary confinement has to do with the torture.

Another issue is the issues of lifers, who are mainly subject to be isolated, segregated for many days, not only hours. There is a continued issue in our region, also many other countries in the world where we work, so called violent extremist prisoners. Most of them are segregated, isolated, and there is no proper reintegration, reeducation programs developed, as there is a very limited permission in prison to improve or develop a rehabilitation program or encountering violent extremist in prisons.

If we speak about children in Africa, many children are held in police stations for longer than 24 hours before being brought to court.

Many children don't have age records and cannot establish whether they are under age of criminal responsibility age.

Police officers don't always identify themselves to arrested and detained children, or specify the reason for the arrest of the child.

One third of the children interviewed said they had been tortured or subject to violent and inhumane treatment in one of the researches that our partners conducted.

Children's families were not always notified of their arrest.

Children were not always kept separately from adults, and the conditions were generally poor.

This can be applied to also some Asian countries, also Central Asia.

Because of their unique vulnerability, children in conflict with the law require higher standards and broader safeguards to be applied to them, particularly at the sentencing stage in the criminal proceedings. Judges and prosecutors must be aware of the specific negative effects of criminal sanctions on children, in particular those involving deprivation of liberty. Prosecutors and judges must primarily consider the best interests

of the child when requesting and imposing sanctions on children, and this includes making individual analysis of the circumstances of both the offence and the child.

Prosecutors and lawyers should always first consider alternative measures to detention, such as care, guidance, and supervision orders, counseling, probation, foster care, education, and vocational training programs, to ensure that the child is treated with full respect.

I would like to highlight also the children who are in the closed facilities, no rehabilitation, this can be also concerning in many countries, too, as these children are potential prisoners that end up in prison in the future because there is no proper reintegration program hosted within the non-prison institutions.

And this is a very sort of style in our region, the gulag style that has been used for many countries where children, for not attending school, or not listening to parents, or running away from home they are put in these closed facilities for up to six months or three years. They are not criminals; they are victims themselves. Because they are victims of violence where the stepfather or stepmother has been abusing the child. We are watching on closing such institutions and encouraging the government to develop alternatives to imprisonment or some closed facilities such as specially closed schools.

Thank you very much for your attention. Of course there is a lot of work we are doing in Africa, in the Middle East, on countries to need them, eventual closure, rehabilitation, protecting the child's rights. I just wanted to highlight the issues that are universal. And this was my view to the world.

[The prepared statement of Mr. Shambilov follows]

PREPARED STATEMENT OF AZAMAT SHAMBILOV

Testimony for US Congress

Azamat Shambilov, Regional Director of Penal Reform International (PRI) office in Central Asia.

Focus area:

- Solitary confinement,
- Children in detention,

Excessive use of solitary confinement in prisons around the world is becoming an increasing concern.

Some form of short-term isolation from the rest of the prison population is used almost everywhere as punishment for breaches of prison discipline. However,

many states use solitary confinement more routinely and for longer periods of time.

States justify their use of solitary confinement in a number of different ways. It may be used as disciplinary punishment for convicted prisoners, to protect vulnerable prisoners or considered to help prison staff to 'manage' certain individuals. It is used to isolate a detainee during the pre-trial stage of investigation, often as part of coercive interrogation, and it can be used to lock away prisoners who have – or are perceived to have – mental illnesses.

While there is no universally agreed definition of solitary confinement – often also called 'segregation', 'isolation', 'lockdown' or 'super-max' – it is commonly understood to be the physical isolation of individuals who are confined to their cells for 22 to 24 hours a day, and allowed only minimal meaningful interaction with others.

Contact with family or visitors is often restricted or denied altogether, despite the fact that contact with family in particular, has been shown to be an important factor in successful rehabilitation.

Medical research shows that the denial of meaningful human contact can cause 'isolation syndrome', the symptoms of which include anxiety, depression, anger, cognitive disturbances, perceptual distortions, paranoia, psychosis, self-harm and suicide. Prolonged isolation can destroy a person's personality and their mental health and its effects may last long after the end of the period of segregation.

Solitary confinement increases the risk of torture or ill-treatment going unnoticed and undetected, and it can in itself constitute torture and ill-treatment, in particular where it is prolonged or indefinite.

Any form of isolation should be used only in very exceptional circumstances, as a last resort, for as short a time as possible, and with appropriate procedural safeguards in place. Where solitary confinement is used, prison regimes must ensure that prisoners have meaningful social contact with others, for example by: raising the level of staff-prisoner contact; allowing access to social activities with other prisoners and more visits; arranging in-depth talks with psychologists, psychiatrists, religious prison personnel and volunteers from the local community; maintaining and developing relationships with family and friends; and by providing meaningful in cell and out of cell activities.

Key facts

1. Contrary to popular belief, **solitary confinement is not reserved only for the most dangerous prisoners**. Often it is imposed to isolate detainees during the pre-trial stage of investigation, including as part of coercive interrogation. Solitary confinement for pre-trial detainees has, for example, been part of Scandinavian prison practice for many years. It is also used to lock away prisoners with – or who are perceived to have – mental illnesses.
2. The **routine use of solitary confinement has been growing**, and is becoming an increasingly common feature of high-security and ‘super-max’ prisons designed to hold prisoners who are deemed high-risk or difficult to control. Restricted housing – forms of housing involving a substantial amount of isolation – and these units are becoming more common elsewhere too.
3. Many countries use **prolonged periods of solitary confinement or semi-isolation for those serving a life sentence**, often separating them from the rest of the prison population for the entirety of their sentence. In countries still using the death penalty, and in those where it was only recently abolished, death row prisoners are also typically held in strict solitary confinement.
4. The UN Rules for the Protection of Juveniles Deprived of their Liberty, and the Bangkok Rules for the Treatment of Women Prisoners, **absolutely prohibit the use of solitary confinement for children and pregnant women**, women with infants and breastfeeding mothers in prison respectively. The Istanbul Statement on the use and effects of solitary confinement explicitly recommends that solitary confinement should not be applied to death row and life-sentenced prisoners. The UN Basic Principles for the Treatment of Prisoners state that efforts to abolish solitary confinement as a punishment, or to restrict its use, should be undertaken and encouraged.
5. The revised UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) state that ‘Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the **prison system shall not**, except as incidental to justifiable segregation or the maintenance of discipline, **aggravate the suffering inherent in such a situation.**’ (Rule 3). They define solitary confinement as ‘confinement of prisoners for 22 hours or more a day without meaningful human contact’. Beyond an absolute prohibition of its indefinite or prolonged use (in excess of 15 days), the Rules state that ‘solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority’. Furthermore, they call on measures to alleviate the potential detrimental effects of separated confinement for the prisoners concerned.

6. In his report to the UN General Assembly in 2011, the **UN Special Rapporteur on Torture recommended a ban on prolonged or indefinite solitary confinement** as a punishment or extortion technique. Such treatment runs contrary to the prohibition on torture and other ill-treatment and is a ‘harsh’ measure, undermining the goals of rehabilitation, the primary aim of a criminal justice system.

Children/ Juveniles

Africa

- Many children are held in police stations for longer than 24 hours before being brought to court.
- Many children do not have age records and cannot establish whether they are under the age of criminal responsibility.
- Police officers do not always identify themselves to arrested and detained children, or specify the reason for arrest.
- One third of the children interviewed said they had been tortured or subject to violent and inhumane treatment.
- Children’s families were not always notified of their arrest.
- Children were not always kept separately from adults – and conditions were generally poor.

Children and young persons

The UN Special Rapporteur on the Independence of Judges and Lawyers stated in 2015 that, ‘because of their unique vulnerability, children in conflict with the law require higher standards and broader safeguards to be applied to them, particularly at the sentencing stage in criminal proceedings’. She argued that judges and prosecutors must be aware of the specific negative effects of criminal sanctions on children, in particular those involving deprivation of liberty: prosecutors and judges must primarily consider the best interests of the child when requesting and imposing sanctions on children and this includes making an individual analysis of the circumstances of both the offence and the child. Prosecutors and lawyers should always first consider alternative measures to detention, such as care, guidance and supervision orders, counselling, probation, foster care, education and vocational training programmes, to ensure that children are treated with full respect for their needs and rights, as well as for their well-being and development’. The Special Rapporteur has also called on, ‘the competent authorities to be extremely vigilant when imposing pre-trial detention on children, which, as in instances of deprivation of liberty ordered at the end of a trial, they must justify in writing, having shown that they took into account the child’s special needs, rights and best interests’.

The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has highlighted that, 'children deprived of their liberty are at a heightened risk of violence, abuse and acts of torture or cruel, inhuman or degrading treatment or punishment'. He further stated that, 'even very short periods

of detention can undermine a child's psychological and physical well-being and compromise cognitive development. Children deprived of liberty are at a heightened risk of suffering depression and anxiety, and frequently exhibit symptoms consistent with post-traumatic stress disorder'. Finally, he noted that a number of studies had shown that, 'regardless of the conditions in which children are held, detention has a profound and negative impact on child health and development'.

The impact can be particularly damaging for girls. The Special Representative of the UN Secretary-General on Violence against Children has reported that, 'girls in detention are not only vulnerable to sexual violence. Under certain prison regimes, physical abuse and punishment is a daily occurrence, and in countries where inhuman forms of punishment are still condoned, girls may be sentenced to flogging or death by stoning or lashing on the grounds of perceived immoral behaviour'.

As a result of their vulnerability, children in detention are considered by the Special Rapporteur on torture to need specific attention and modified standards in relation to such matters as the disciplinary system and use of segregation, opportunities for rehabilitation and the training of personnel. Developments in the treatment of children have been mixed. The Indian Juvenile Justice Act has been changed to enable children aged between 16 and 18 years old who have been accused of heinous crimes to be tried as adults. Juvenile Justice Boards will determine whether the child ought to be treated as a 'child' or 'adult'. Brazil has also approved a constitutional amendment that reduces the age of criminal responsibility from 18 to 16 years of age. In the USA, meanwhile, reforms to the way children are treated by the criminal justice system have dramatically cut the number of young people in state prisons. A new draft law in Cambodia aims to provide rehabilitation opportunities for children, rather than simple prison sentences. A new juvenile justice code in Georgia has established specialised police prosecutors and courts and reduced lengths of detention as well as limiting a child's criminal record.

As far as institutions for children are concerned, in Europe, the European Committee for the Prevention of Torture (CPT) has noted 'progress in ensuring that juveniles who are sent to prison are not held together with adults but in juvenile-only units', but the quality of regimes in many of these units are still impoverished. The use of pre-trial detention and the use of isolation for minors in Sweden has been criticised by the UN Committee against Torture. An internal

report at a juvenile prison in Izmir, Turkey, has exposed sexual abuse and bullying of minors by older prisoners. Outside Europe, a Zambian Health Ministry spokesman has announced that the government is building and renovating cells for juvenile prisoners at prisons across the country so that juveniles will no longer be held with adult prisoners. In Dubai, the Public Prosecution and Dubai Courts are reportedly working with public and government institutions to replace prison sentences with vocational training.

Non-prison institutions can be a cause for concern in many countries too. Nearly 40 per cent of juvenile offenders in India live in conditions 'like or even worse than' adult prisons, according to a scathing judicial report that studied the state of children's homes across the country. A PRI study in Central Asia found that conditions in institutions for children in conflict with the law were poor and children were subject to violence inflicted by other children or staff. A quarter of children said they had been abused by staff, and significant numbers of children are held in custody longer than domestic law permits.

There appears to be a growing consensus that adolescence continues well beyond a person's 18th birthday. Some countries already treat young people up to 21 as juveniles (eg. Japan, where the age range is 14-20 years). The work of the Transition to Adulthood Alliance (T2A) in the UK has proved influential. Drawing on research from criminology, neurology and psychology, T2A argues that young adults are a distinct group with needs that are different both from children under 18 and adults older than 25. T2A promotes a distinctive approach by police, prosecutors, courts, probation and prison systems, which takes account of the developmental maturation process that takes place in this age group.

RECOMMENDATION

As well as seeking to ensure that children under 18 are kept out of institutions as far as possible, countries should put in place distinct arrangements for young people over the age of 18 who are still developing towards adult maturity, which is often not acquired until young people reach their mid-twenties.

Mr. HULTGREN: Thank you very much, Mr. Shambilov. Appreciate your work and your willingness to join with us even though it is so early in the morning there where you are at. It means a lot to us that you are with us.

I wonder if I could address my questions to you first, just to follow up on some of your testimony. You talked about the extended pre-trial detention that often happens where many times it is more than 24 hours, especially for juveniles. I wonder if there are some alternatives to this type of pre-trial detention? And are you seeing any movement there?

Or what can we do again to push, especially for juveniles, but for all people to make sure that there is a speed to this, that they are not held for long periods of time without knowing why they are being held?

Mr. SHAMBILOV: Thank you very much for your question.

I think it is a very important question because many countries in the world they don't recognize that the child is a child, no matter what effect has been meted. The child psychology and the perception of the criminal justice facilities is very different.

By the formal criminal proceeding a child can be damaged. And the first important thing what needs to be done is the legislative space, the countries need to create child-friendly justice system where the child will not be processed through the formal criminal proceedings or the same interviewing and interrogation system that is applied for adults. Where the smaller hours will be used for interviews. And the only one interview will be used for all trial cases.

Mr. HULTGREN: If I can ask you one more question. If you could talk briefly about how you see corruption affecting the availability of justice and fair treatment of those who are accused.

Do you see a significant problem with corruption? And what can we do to fight back against that part of it as well?

Mr. SHAMBILOV: Thank you very much. This is exactly the question that we have started working from last year.

There are now many organizations working in the region directly with the people for government, with the ministries to fight against corruption in the system, trying to end corruption going forward in these countries. Of course, many researches have been done but there is very little areas this has been done regarding the corruption in prisons, regarding corruption in police.

But we have figured out in our latest project in Kazakhstan that the prisoners use the small amount of bribe or any kind of corruption that they have just to survive in

prison or to have access to some minimum acceptable any type of services such as visiting their family, or any kind of contact with their family, having the access to good food, or any rehabilitation program. The corruption is one of the big obstacles in reforming the criminal justice system, particularly focusing on prisons or any kind of law enforcement premises.

In this regard, I think the world should think about the prisons where the corruption routinely is taking place. And the corruption can be directly linked to torture where some prisoners will not take money or any kind of means to use as the corruption.

Mr. HULTGREN: Thank you.

If I can address a couple questions to Mr. DeRoche. Thank you again for being here.

You talked some about restorative justice. And wondered if you could talk a little bit more about that, of how that is working?

I know some of that restorative justice is outside of the prison, but that which is happening inside the prison, how are you working with staff of prisons to help them recognize the importance and the power of restorative justice?

And then wonder if you could just talk a little bit about the larger impact on prison populations when restorative justice is a part of the process?

Mr. DeROCHE: Absolutely. Thank you, Mr. Chairman.

Restorative justice, we use two terms at Prison Fellowship, restorative justice and justice that restores. Justice that restores is advocating for a sentencing policy and a tenure in the criminal justice system that seeks a restorative outcome, with or without the victim participating or not. You know, so your victim can stay absent from that, but the court, the state is still going to try to seek a restorative outcome in the manner in which a person is sentenced.

Restorative justice, the word "restorative justice" is actually generally acknowledged around the world and in the United States to be a practice of where the person that has caused the harm, you know, the offender, the different words that we use for that, that has committed the crime, and the person that has been harmed actually remediate the damage.

Now, to have a vibrant and successful restorative justice program one of the first things that you need to take into account is the fact that many victims are not willing to participate for a myriad of reasons. And we want to be respectful of that. So Prison Fellowship International's Sycamore Tree project, which is active in 34 countries,

actually goes into the prison for eight weeks and has people of a similar situation, but maybe not the victim of the crime, talking to the person that committed the crime.

So, in other words, a victim of a home invasion may talk to other people convicted of home invasion and get the answers that they seek, but not have to confront their person for fear of retribution and all the other things that we, you know, want to be respectful to victims for. So that has been a very effective program in those 34 countries because it allows really a couple of very important things to occur.

One is when somebody is living with criminogenic thinking and is inclined to and participates in a crime, they usually are not fully understanding the damage and the harm they are causing when they do that. And we find in all of Prison Fellowship's programming, whether that is domestic in the United States or around the world, it is one of the very first and most important things we need is the prison to understand that they have hurt other human beings, and that this isn't a grudge they have with the state, you know, that sentenced them, you know, where they can harbor resentments or anger toward the state. We want them to become aware of the damage they have caused and internalize that and bring about that human response of understanding.

With the victims, they get a great deal of -- as we've noted, the studies in the testimony that we submitted -- a reduction in post-traumatic stress and other things because they see the humanity in the people that they are confronted with and what they are up against in the decisions they made. Doesn't mean that forgiveness is a requirement. Doesn't mean that participation is a requirement. But it seems to help both parties.

And the origin of justice itself, we always point out, Mr. Chairman, is between the person causing the harm and the person that has been harmed and the community that has been effective. The government, in its best case, is supposed to be a mediator and not the victim itself.

And in America, as well as other countries, the further you get away from the victims of crime having a role in this, in the remediation of it, their restoration, it seems the further away from justice you get. So, we think that restorative justice policies and practices, while they are not common in the United States of America, would be of great benefit in this country, as has been seen in New Zealand and other countries that have embraced it. And they do very well to speak to the development of the sentencing policies themselves for the lawmakers because the voice that gets added, and the experience that is often absent is that of the victims that have been restored in the process rather than the victims that are in that acute sense of anger up front.

Mr. HULTGREN: Thanks.

One last question for you, and then if I can wrap up with a question to each of you. But I wonder if you could talk briefly, and it has come up, I think, in each of your

testimony, of challenges of economics and the economies of these countries being a part of the problems in justice systems and prisons.

What other situations or circumstances play a part in that? Because we know we will continue to work to change economies and encourage economic development, but it can't be an excuse either to push off prison reform. So I wonder if you can just talk a little bit about the importance of attitudes or commitments or other things that play a role in where you have seen turnaround of justice systems that still are going to have some economic struggles?

Mr. DeROCHE: Yeah, I think it's a matter of priorities. And I think that this commission that you and Representative McGovern chair has an important role. And I know that it is a commission and our recommendations don't offer any force or brash statements, but our recommendations do talk about engagement because the United States does provide aid for these countries.

And when you look at what I reported in our testimony with the sub-Saharan countries of Uganda and Kenya, what we are seeing in Colombia right now in the state of Antioquia just this past week with some pretty dramatic situations, to the riot in Lebanon, these are countries that the United States are involved with. And it would be very helpful if we recognized that, you know, these are human lives. And when we are making investments in these countries, and the hope that we have for them with the economic growth, that if we allow human beings to be treated without the value of their humanity, without the value of their dignity, that that is beneath the values that this country was founded on and how we operate today.

And so I pray and I hope that this commission speaks into the Congress, and as we said, into the international diplomacy that you are often called to contribute to, to say that prisons should be a priority in the conditions. And, unfortunately, we are starting with, as you have heard the testimony, with things as simple as the prevention of rape and sexual violence, with things like the water and food and medication to be available. So this is not, we are not talking about cable television and recliners in the lounge here. And I think the United States has done a great deal domestically to improve these situations. The Congress has had an active role in that, and continues even this session.

And I pray that you speak into this with the international community.

Mr. HULTGREN: We will do our best to do that.

What would be helpful, and I guess the wrap-up question I have for both of you, and Mr. Shambilov, if I could start with you, we do want to be able to share the testimony that we have heard today, but what I have found is compelling with my colleagues, along with constituents that I work with, is real stories and real people.

I wonder, without sacrificing any confidentiality or putting anybody in danger, if there is a person that pops into the front of your mind that we should be aware of that you have seen struggle? Maybe a little bit about their story just to put a real face on this, because I think when we do see movement and commitment to follow through on this is when we realize that this could be our brother or sister, or son or daughter, or niece or nephew, or father or mother that is in these situations. And that changes perspective when we realize that.

So, is there, just quickly, a story or just quick, brief outline of a person we can think of that comes to mind of why this is worth the fight to see some real change? And I would ask Mr. Shambilov first.

Mr. SHAMBILOV: Thank you very much for the question.

So I sort of understand you would like to hear what was that?

Mr. HULTGREN: If there is just a person. Your testimony was so compelling, but you also talked about just in the last day or two dealing with real people, teenagers, young people who are in a very difficult situation. If there is one of those that is in the forefront of your mind, again without doing anything that would hurt confidentiality for them or put them in a difficult position, but just a connection of a situation that might be helpful for us.

If not, you could follow up, too, and let us know by email or something just, again, to go and explain to our colleagues that this is real, that these are real people who are facing these challenges.

Mr. SHAMBILOV: Yes. Of course there are plenty of stories. There are maybe hundreds of stories that we hear every day.

I would like to share a story of a boy and one women. So briefly speaking, the boy was brought up by single mother. And mother was married to a white guy. And during the marriage, the first three years, the small boy started being abused by the husband of the mother. And there was big confrontation between the boy and the stepfather. And the boy started running away from home.

And this is the latest case that we are working at the moment. And we are supporting his representation, so psychological support, and the social support. At the moment he is presently in a specialized closed school, so a non-prison institution. But it is the same like a prison. The premises are closed. No one can leave this facility.

There is the guard. There is the staff members working. And then special reality is the boy wants to leave these premises it is only the judge's decision.

So the mounting of the case is the mother was complaining to the police that she's child -- her child is violent. But his violence was that he didn't want to live with the stepfather. They couldn't find the same way of understanding of living, and that he was not understood by the mother as well.

The sad side of the story how they go wrong, not the parents, not the institution, not the state had understanding. So, at the moment the boy is passing the extremist program, which is really important for boy to have the self-esteem, self-understanding, also to believe in his future because he didn't go to the public school for the past one year and a half. He has been running away from the school.

So the changes to the law that we are making at the moment, in Kazakhstan particularly, where we want to change the schools or prisons for juveniles how they are operating, as we think it is time for us to change the gulag system, which was purely focusing on punishment, not the reintegration.

And another case it comes from another country where my colleagues and I are working. It is the case of a woman who was imprisoned because of her behavior in society. They call it deviant behavior, but I am totally against the word "deviant behavior" because someone cannot be deviant if there is the life, there is the situation in life that led woman to this position.

This woman was divorced from her husband. She had three children. She started drinking. She started being sad; that led to depression. She started stealing things from the shop. And she started breaking the window of the shop that they didn't steal -- stay out in late hours.

When I spoke to this lady she already had some very post-traumatic issues. And we figured out that she started painting. And we opened together a painting classes. In three months' time she had become a winning painter among all prisoners. And afterwards, in three months' time, so within six months since we started working with her she applied for parole. She was successful. She was released from prison.

And this just proves that reintegration programs in prison can encourage the prisoners to change their lives. And also for prison staff to understand that someone who is in prison can be released earlier without waiting ten years imprisonment. This is true story.

Mr. HULTGREN: Thank you very much. That is very helpful. Thank you.

Craig, is there a thought of a person?

Mr. DeROCHE: Yes. Thank you, Mr. Chairman.

And I am drawn to a story in Colombia in the state of Antioquia as I, as I pointed out, that is in a state of distress at this hour, during this hearing. And in Colombia right now we have a thousand prisoners that are in police stations. And they are not able to have them there -- or they have them there because the prisons have no space to put the people.

They are forcing people to live in bathrooms and in corridors, even the prosecutor's office. And the Minister of Justice in Colombia Jorge Eduardo Londoño said on Tuesday that it is very critical, and the government cannot hide it. Mrs. Lucia Metas talks of despair, as many other family members in Colombia at this hour. In this case her nephew, who is incarcerated. He broke the law. Again, we are not talking about people that are being unjustly prosecuted, we are talking about the conditions of the justice system they face. But for a small crime. And he has a serious medical condition. And you have people that are sleeping in hallways and in basements, not getting basic food or medical care. And that is happening on Earth today. And it is happening on Earth in some of the other countries that I spoke to in the sub-Saharan countries.

But like my friend who just testified, there, there is hope. The example I gave in Zimbabwe. There is a family of somebody that Prison Fellowship International provides services to. In this case, the father is incarcerated. They had a policy where children under the age of 18 were not allowed to visit a parent in prison. The mother, who is out of prison, suffered a debilitating stroke.

And so Prison Fellowship International, a number of other organizations advocated for Zimbabwe to change that rule so these children would be able to visit their father in the prison, while at the same time as an NGO provided living assistance for the children, got them placed in government assistance where possible, housing, food, and medical care while their father, who could provide for them but he is incarcerated.

So we make progress. But, Mr. Chairman, we slug it out day by day. And we are thankful for the progress that you and your fellow members are making with the American system. And as we move forward to what Prison Fellowship calls Second Chance Month this year in the month of April, we pray to gain a bunch of ground this year.

Mr. HULTGREN: Thank you. Thank you to each of our witnesses. Grateful for your work and your time and your testimony. And please stay in touch with us. Let us know suggestions, ideas that you have that we can carry out to other members of Congress here.

With that, the Lantos Human Rights Commission adjourns this hearing. Thank you so much.

[Whereupon, at 4:06 p.m., the commission was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD



Tom Lantos Human Rights Commission Hearing

Hearing Notice

Advancing Human Rights through International Prison Reform

Wednesday, January 17, 2018

2:30 – 4:00 PM

2255 Rayburn House Office Building

Please join the Tom Lantos Human Rights Commission for a **hearing** on the issue of international prison reform.

Nelson Mandela once stated that “no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.” And yet there is mounting evidence that we are currently experiencing a “global prison crisis.” Prisoners throughout the world often face routine abuse such as torture, the threat of violence from other prisoners, lack of food and health services, lack of contact with family, and extended pre-trial detention which can expose even those eventually found not guilty to long-term incarceration. These problems often entail the violation of basic human rights, may contribute to recidivism, and disproportionately affect vulnerable populations, including children.

In this hearing, witnesses will discuss the problems facing prisons around the world, examine the situation for female and juvenile offenders, and offer hope through examples of successful reform initiatives as well as effective alternatives to prison.

Panel I

- **Philipp Meissner**, Crime Prevention and Criminal Justice Office, United Nations Office on Drugs and Crime
- **Hilary Anderson**, Senior Specialist, Inter-American Commission of Women, Organization of American States

Panel II

- **Craig DeRoche**, Senior Vice President for Advocacy & Public Policy, Prison Fellowship
- **Azamat Shambilov**, Regional Director, Office for Central Asia, Penal Reform International (from Bishkek, Kyrgyzstan, live via video)

Additional witnesses may be added.

This hearing is open to Members of Congress, congressional staff, the interested public, and the media. The hearing will be livestreamed via YouTube on the Commission website, <https://humanrightscommission.house.gov/>. For any questions, please contact Matthew Singer (for Mr. Hultgren) at 202-226-3989 or Matthew.Singer@mail.house.gov or Kimberly Stanton (for Mr. McGovern) at 202-225-3599 or Kimberly.Stanton@mail.house.gov.

Sincerely,

Randy Hultgren, M.C.
Co-Chair, TLHRC

James P. McGovern, M.C.
Co-Chair, TLHRC
