

## 13<sup>th</sup> United Nations Crime Congress, Doha, Qatar, April 2015

### Official ancillary event summaries and useful links

Compiled by Penal Reform International, April 2015

#### **OHCHR Global Panel: Moving away from the death penalty – The death penalty and drug-related offences**

The panel began with an overview of a recent publication “Moving Away from the Death Penalty: Arguments, Trends and Perspectives” published by the UN Office of the High Commissioner of Human Rights. The panel provided information on the use of the death penalty worldwide, and discussed the growing trend for states to either abolish the death penalty altogether or impose a moratorium on executions. Despite this growing trend, however, panelists raised concerns with the following statistics: In 2014, there was a 22% decrease from the previous year in the number of executions, but an increase of 28% in the number of people sentenced to death. The increase in the number of people sentenced to death was attributed to growing feeling of insecurity stemming from drug-related crime and terrorism. Another focus of the session was on deterrence and whether the death penalty has any deterrent effect. Relying on empirical research, panellists explained that there was no evidence that the death penalty had any greater effect than other punishments, including a life sentence without parole. Further evidence that the position that the death penalty has no deterrent effect is evidence that demonstrates that crimes rates, in particular homicide rates, have increased after the use of executions in a number of member states. The session concluded with a number of questions from the audience, including questions on the rights of victims, the power of sovereign states, and the research surrounding deterrence and the death penalty. Panelists concluded the session by observing that there is one standard of international human rights, which should apply to all states.

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#### **Revision of the UN Standard Minimum Rules for the Treatment of Prisoners**

Co-sponsors: PRI, South Africa, Thailand, Switzerland and Uruguay.

[See updated joint-NGO briefing on the process.](#)

The session began with a brief history of the UN Standard Minimum Rules for the Treatment of Prisoners (SMRs) as well as an overview of the current review process to amend and update the SMRs. It was noted that, while the SMR have remained a useful standard, they have become antiquated in some areas and are no longer in sync with current standards of criminal justice and human rights. Panelists highlighted the commitment by states in

Resolutions guiding this process that the current review process must not lower any of the existing standards, and that any amendments must maintain the foundation of providing safety, security and humane treatment of prisoners. Examples of areas and Rules under review were given, including access to legal representation, health care and investigations into deaths in custody. Assessing the forth intergovernmental Expert Group meeting in Cape Town, South Africa, in March, the panellists agreed that the outcome, result of thorough and intense negotiations, was very positive and that the process should be concluded with the adoption of the revised Standard Minimum Rules for the Treatment of Prisoners at the forthcoming Commission on Crime Prevention and Criminal Justice in Vienna in May. The panellists also welcomed the proposal that the revised SMR should be made known as the 'Mandela Rules'. The absence of a preamble, referencing other applicable standards that supplement the SMRs, was noted as one of the issues that was not resolved during the Expert Group meeting. A suggestion was made that such reference could be included in the preamble of the Resolution adopting the SMRs. Overall, strong support was voiced for revisions to the SMRs as proposed by the Expert Group after four substantive meetings. As for the further process it was noted that a Resolution will be tabled by South Africa at the forthcoming Commission on Crime Prevention and Criminal Justice, which – in case of adoption – would be brought before ECOSOC and ultimately adopted by the UN General Assembly. Further steps discussed included the implementation of the updated SMRs – if adopted – at the national level, requiring a respective commitment by states and the international community, including technical assistance. The participants and panel discussed how the UN and other agencies and organizations can contribute to the implementation of the SMRs. Reference was made to the important role of internal and external inspections, and of sharing best practices amongst states.

## **Gender-sensitive monitoring and oversight of prison systems**

Organisers: PRI and the Raoul Wallenberg Institute

The panel outlined the gender specific needs of women in detention, such as reproductive health needs and the responsibilities women have as primary caregivers to infants and children. Discussed were the challenges in meeting the special needs of women and the improvements which could be made to raise awareness of relevant human rights and criminal justice standards, in particular the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ("the Bangkok Rules"). As a result of women's special needs, panellists expressed the requirement for monitoring bodies to focus on and incorporate gender perspectives in their work and activities. The session provided examples of monitoring practices used to review the situations and needs of women who are detained or incarcerated, ranging from regional human rights bodies and Public Defenders' Offices to National Human Rights Institutions (NHRIs) and internal inspection mechanisms. The session also covered the role that non-governmental organizations can play in gender-sensitive monitoring. The panellists also outlined different methods used by monitoring bodies within their work, including prison visits, research and reporting, but also enquiry into individual allegations of violations of rights and litigation by some bodies, depending on their mandates. With respect to the Bangkok Rules, panellists noted the challenges faced by

some states to incorporate these standards in their criminal justice system. To assist states in adhering to both the UN Standard Minimum Rules for the Treatment of Prisoners and the Bangkok Rules, initiatives have increased to provide guidance and trainings to prison administrations and other relevant authorities. It was noted that such initiatives have had a positive impact and led to provisions of the Bangkok Rules being implemented in prisons, in even the most challenging areas. For further information: PRI/ APT, Women in Detention: A Guide to gender-sensitive monitoring, 2013 (available in English, Russian, Arabic, French, Spanish and Georgian) <http://www.penalreform.org/resource/women-detention-guide-gendersensitive-monitoring/>

## **Tackling crime without the death penalty**

Organiser: Amnesty International

This presentation included three different speakers who spoke on the topic of the death penalty and alternatives. The presenters offered their professional insight on the human rights dimensions of the death penalty followed by a discussion with attendees including the issues of deterrence and rights of people sentenced to the death penalty and the implications thereof. Some controversial topics that were addressed included Countries using the death penalty as a "quick fix" to crime. Countries using the death penalty for political gain, the use of the death penalty for drug offenses and alternative forms of punishment that do not include the death penalty. Other topics included adding humanity back to the offender, the best way to cause less damage and harm and still achieve a form of justice not just for the offender but for the victim as well. Overall, this presentation was very insightful and informative to hear the opinions of attendees from different nationalities all engaging about such a controversial topic in a very educated and professional manner.

## **Global Prison Trends: Developments and challenges in penal policy**

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Organisers: PRI, UN Office on Drugs and Crime (UNODC) and the Swedish Prison and Probation Service

This panel brought together experts from different regions to discuss some of the key global developments and challenges in prisons including alternatives to imprisonment, corrections in peace-keeping operations and drug policies – in light of the UN General Assembly Special Session on Drugs (UNGASS) in 2016. Penal Reform International's new publication 'Global Prison Trends' was launched, and served as a basis of discussion. It has been acknowledged that regular monitoring of crime trends and the operations of criminal justice systems is key to measuring progress in strengthening the rule of law and advancing towards sustainable development. Enrico Bisogno, UNODC research and trend analysis branch, gave a presentation on global trends in crime and criminal justice. When talking about global trends in the past 10 years, property crime decreased, to a lesser extent, violent

crime also decreased and drug-related crime is on the increase, especially for use/possession. Despite the fact that the global homicide rates have decreased for the past 10 years, in low development countries the rate has actually increased. The prison population rate has remained stable, registering an increase in South America and Western Asia, and a decrease in North America and Eastern Europe. The global juvenile prison population rate has registered a slight decrease in the past 10 years, while in Africa and in America it has increased. As a conclusion, patterns of homicide, bribery, flows of illicit trafficking, but also levels of access to justice suggest that weaker rule of law is associated with lower levels of economic development. Allison Hannah, Executive Director of Penal Reform International, presented the report "Global Prison Trends 2015". This report is intended to be the first of an annual series of reports designed to describe key global trends in the use and practice of imprisonment and to identify some of the pressing challenges facing states that wish to organize their penitentiary system in accordance with international norms and standards. The report comprises seven main parts, a special feature and a series of conclusions and recommendations. Part one looks briefly at what is known about crime rates and their relationship with the use of prison. Part two addresses trends in imprisonment and part three looks at recent changes in the extent and nature of prison populations around the world. Part four discusses questions about the organisation and management of prisons: who is responsible for them, who works in them, the challenges they face and how and what systems are in place for monitoring and inspection. Part five looks at regimes in prison and Part six at the opportunities and challenges created by new technology. Part seven looks at the use of alternatives to imprisonment, and is followed by conclusions and recommendations. A special feature of this first edition puts in focus penal policies with regard to drugs and prison. Significant international developments, recent research projects and precedent-setting court decisions are highlighted throughout. The report includes information and examples from various countries and regions. These are not intended to be comprehensive or exhaustive but rather to illustrate the trends and challenges in a large number of states. Markku Heiskanen, European Institute for Crime Prevention and Control, affiliated with the United Nations, talked about probation statistics in Europe. There were large differences between the countries in the total number of persons under the supervision of probation agencies in 2010. The rates per 100 000 population ranged from 10 in Croatia to 944 in Poland, reflecting the development of supervision in many countries as well as different definitions of the concept. The mean rate of minors under the control or supervision of probation agencies was 30 per 100 000 total population, with a maximum rate of 124 in Poland and a minimum of 0.4 for Belgium. Most often used community sanctions and measures were: Supervision of suspended custodial sentence (43% of total), Probation as a sanction of its own right (35%), Supervision before a final sentence (28%), Supervision after conditional release from prison (17%). Christer Isaksson, head of the Office for International Affairs Swedish and Probation Service talked about deploying correction staff in peace keeping operations of the UN. Corrections and peacekeeping was fairly new – in Sweden it has been happening since 2005, and currently there were around 300-350 people in missions. About 25 countries worldwide contributed to peace keeping operations but very few European countries. Only in post-conflict areas, corrections officers go with the role of mentoring and advising the national colleagues, most of what they do consisted of training. Sweden had an executive mandate in South Sudan – help the locals to handle their problems, reverting the use of force. In the past Sweden has had missions in: Kosovo, Haiti,

Iraq and presently only in Africa – Ivory Coast, Liberia, Congo, Somalia (want more people to send there), and Kurdistan and were looking to send in the future to Mali, Ukraine, Libya. The challenges: sometimes UN leave too early; Gender – not 50% women, except Sweden and Rwanda, overcrowding of prisons and very few staff. In some countries the problem was what to do with the army of the losing side of the conflict. The judicial process was not working – no judges, no prosecutors, no cars, etc. The audience and the speakers had a discussion on solitary confinement. Peter van der Sande, President of ICPA, mentioned that as it resulted at the ICPA Annual General Meeting in Colorado, solitary confinement was an issue in USA but not so much in other parts of the world. Allison Hannah considered prolonged isolation to be extremely damaging for mental health and was more a problem than a solution. 15 days should be the longest period.

## **Implementing Non-custodial Measures for Women in Relation to Drug Offences**

Organiser: Office of the Affairs and Projects under Her Royal Highness Princess Bajrakitiyabha's Initiative, Thailand's Ministry of Justice

The UN Bangkok Rules serve as an international benchmark for non-custodial measures for women offenders. In Thailand, as in many countries, a high percentage of offences committed by women are drug-related. There is a clear link between women prison overcrowding and a harsh, punitive drug control laws. This panel examined such a link and exchange experiences in implementing this part of the Bangkok Rules in relation to drug offences. The introduction of the session was delivered by Police General Chatchawal Suksomjit, Permanent Secretary, Ministry of Justice of the Kingdom of Thailand, followed by the keynote speaker of the session Her Royal Highness Princess Bajrakitiyabha Mahidol of Thailand. Dr. Eduardo Vetere, Vice President, International Association of Anti-Corruption Authorities stressed the importance of implementation the existing UN rules, especially the Bangkok rules and underlined the efforts made by the Kingdom of Thailand in writing, implementing and promoting the rules. In 2010, in the Salvador declaration a inter-governmental committee was established and had a mandate for the revision of the rules. Since the adoption of the minimum standard rules in Geneva at the first congress, things have changed. As a conclusion, the UN General Assembly recognized the value and importance of the Bangkok rules and the standard minimum rules and the Bangkok rules need to be correlated. Ms. Andrea Huber, Policy Director, Penal Reform International (PRI) talked about alternatives to imprisonment and that they avoid the high social and economic cost of detention and have proven to be more effective than imprisonment in preventing re-offending, in particular for minor, non-violent offences. The percentage of women offenders charged with these types of offences was particularly high. Both alternatives to pre-trial detention and to prison sentences however tend not to be gender specific, but tailored to the male majority of suspects and offenders. As the female population rose and gained more knowledge on the pathways of women to prison and the consequences not only for them but also their children and families, it served as reminder why alternatives for women offenders were so badly needed. These alternatives need to work for women, the services and interventions must be gender responsive. Mr. Pitaya Jinawat, Advisor, Inspire Project,

Ministry of Justice of Thailand, talked about Addressing overcrowding in women prison through reduction of drug offences: the Thai experience. In his presentation, he addressed the current situation of overcrowding in women prisons, major causes and impacts of the problem, role of the Inspire project in solving the problem and major achievements and challenges. Major challenges faced in implementing the Inspire project were: prevailing paradigm was not supportive, harsh drug policy and rigid drug laws, political parties, government and implementing agencies were afraid of conflicts with public opinion, power/interest groups etc. (which were under the influence of prevailing paradigm), quality of implementation of the government officers to enforce laws in certain part were not transparent (human rights neglect) and the court's judgement in determining drug cases in circumstances of rigid drug laws to balance legal justice and social justice. Ms. Gloria Lai, Senior Policy Officer, International Drug Policy Consortium (IDPC), presented experiences from Latin America on reducing the incarceration of women for drug offences. In South America more than anywhere the effects of war on drugs could be seen, which led to extremely disproportionate incarceration rates of women. In the period 2006 – 2012 the rate of women imprisoned has doubled, women stuck in a vicious circle of poverty and crime. Examples were given of what had been done on non-custodial measures for women offenders who were pregnant. However, in some countries if non-custodial measures were provided by law, they were not available for drug offences. Legal reforms: key drivers of prison overcrowding is the law. In Ecuador they amended the law where they make distinction of different types of possession. Costa Rica reduced the sentence for the women carrying drugs in prison. Conclusions: More data to assess the scale and impact, measures focussing on prevention and development, proportionate sentencing frameworks, which take account of mitigating factors and alternatives to incarceration, with imprisonment as a last resort.

## **Prison overcrowding**

Organiser: UN Office on Drugs and Crime (UNODC)

UNODC, in cooperation with the International Committee of the Red Cross (ICRC) has published a "Handbook on strategies to reduce overcrowding in prisons" to be used by practitioners and policy makers. Available in several languages, the handbook analyzes the possible causes of prison overcrowding and proposes strategies to address them. Prison overcrowding has reached epidemics proportions in many countries, with 77 countries worldwide reporting prison occupancy rates higher than 120% in 2014. The challenges brought about by prison overcrowding have to be dealt with by prison administrations although the solutions are seldom within their reach. Prison overcrowding has usually several mutually reinforcing causes, like for example punitive criminal policies, overreliance on pretrial detention, lack of alternatives to imprisonment, insufficient access to legal assistance, etc. Prison overcrowding makes it difficult to dedicate individualized attention to the prisoners and has serious consequences on the conditions of detention, with more people competing for insufficient resources in cramped and unhealthy environments. ICRC underlined the deleterious effects of overcrowding on the prisoners' health and drew the attention to the importance of proper planning and standards for prison construction to ensure decent living conditions. An example of the need for a concerted and coordinated effort by various actors in order to successfully reduce prison overcrowding is the South

African experience. In a few years, South Africa managed to dramatically reduce the rate of prison overcrowding through strong political will that translated into a multi-pronged strategy, the implementation of which is being supervised by a National Overcrowding Task Team. Open Society Justice Initiative has recently published a report (Presumption of Guilt) highlighting the excessive and arbitrary use of pre-trial detention at the global level. In many countries, high levels of pre-trial detention greatly contribute to prison overcrowding. Pre-trial detention has a terrible human and financial impact on society as it disrupts the lives of detainees and their families, leads to loss of employment and housing, causes public health problems and results in stigma and greater difficulties in finding a job upon release. Preference should be given to non-custodial measures rather than pre-trial detention. PRI advocated better and wider use of alternatives to imprisonment and underlined the importance of properly informing the public on their application. The most widely used options are probation and community service. While many countries had in place legal provisions foreseeing different types of alternatives to imprisonment, the reality was that judges often did not feel comfortable in applying them as they were afraid of the reaction by the media and the public. Imposing a non-custodial sanction means that offenders can continue to work and earn a livelihood for them and their families; care for their children and, if a Community Service Order is made, contribute to the community through unpaid work. In Latin America, there are high levels of prison overcrowding and women prisons are usually worse as women prisoners tend to be grouped in fewer institutions that tend to be very crowded. The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) address the specific needs of women in prison and call for measures to mitigate the particularly harsh impact of detention on them. Very punitive drug laws that fail to discriminate between drug traffickers and micro traffickers, have contributed to the increase in the number of women prisoners in Latin America. Many of the women involved in micro trafficking are foreigners, far away from their families and in even greater need for special attention. Recently, several countries have introduced changes in their criminal law, taking into account the conditions of poverty and social exclusion of many of these women to shorten their sentences and facilitate their access to non-custodial measures. The panel discussion concluded stressing the importance of addressing prison overcrowding as a complex problem, requiring strong political will and a multidisciplinary and concerted effort to be solved.

[Watch the webcast](#)