

1998/23. International cooperation aimed at the reduction of prison overcrowding and the promotion of alternative sentencing

The Economic and Social Council,

Deeply concerned by the serious problem confronting many Member States as a result of prison overcrowding,

Convinced that conditions in overcrowded prisons may affect the human rights of prisoners,

Mindful of the fact that the physical and social conditions associated with prison overcrowding may result in outbreaks of violence in prisons, a development that could pose a grave threat to law and order,

Recalling the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules),⁷⁹ and convinced of the necessity of their further implementation,

⁷⁹ United Nations, *Treaty Series*, vol. 596, No. 8638.

Recalling also the resolutions on the conditions of prisoners adopted by United Nations congresses on the prevention of crime and the treatment of offenders, in particular resolution 16 on reduction of the prison population, alternatives to imprisonment and social integration of offenders and resolution 17 on the human rights of prisoners, both adopted on 6 September 1985 by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,⁹³

Noting that the International Conference on Community Service Orders in Africa, held at Kadoma, Zimbabwe, from 24 to 28 November 1997, adopted the Kadoma Declaration on Community Service, contained in annex I to the present resolution,

Taking note of the recommendations of the seminar entitled "Criminal justice: the challenge of prison overcrowding", held jointly by the Latin American Institute for the Prevention of Crime and the Treatment of Offenders and the European Commission at San José, Costa Rica, from 3 to 7 February 1997, contained in annex II to the present resolution,

Mindful that many Member States lack the necessary resources to resolve the problem of prison overcrowding, and conscious that the inadequate facilities and cell accommodations in prisons are a product of the difficult socio-economic conditions prevailing in developing countries and in countries with economies in transition,

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

Recognizing the need for Member States to establish economic and technical cooperation for the purpose of improving prison conditions and allocating resources to that end,

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

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

Considering the growing interest in many Member States in measures to replace custodial sentences, especially taking into account the principles of human rights,

Considering also that community service and other non-custodial measures are innovative alternatives to imprisonment and that there have been promising developments in this area,

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

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

⁹³ See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August–6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

1. *Urges* Member States, if they have not yet done so, to consider introducing appropriate alternatives to imprisonment in their criminal justice systems;⁹⁴

2. *Recommends* to Member States that have not yet done so to consider adopting effective measures to reduce pre-trial detention;

3. *Recommends* to Member States, subject to national law, to consider the following:

(a) Dealing with petty offences according to customary practice, where such practice exists, provided that doing so meets human rights requirements and that those involved so agree;

(b) If possible, using amicable means of settlement to deal with petty offences and resolving those offences among the parties, for example, by using mediation, acceptance of civil reparation or agreement to compensation through part of the income of the offender or through the work done by the offender to recompense the victim;

(c) If possible, preferring community service and other non-custodial measures to imprisonment;

(d) Conducting a study on the feasibility of adapting successful models of non-custodial measures and applying them in States where they are not yet being applied;

(e) Educating the public about the objectives of the above-mentioned alternatives to imprisonment and about how those alternatives work;

4. *Invites* international and regional financial institutions such as the World Bank and the International Monetary Fund to incorporate in their technical assistance programmes measures to reduce prison overcrowding, including the establishment of adequate infrastructure and the development of alternatives to imprisonment in criminal justice systems;

5. *Requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice no later than at its tenth session on the implementation of the present resolution.

*44th plenary meeting
28 July 1998*

ANNEX I

Kadoma Declaration on Community Service

Recalling the Kampala Declaration on Prison Conditions in Africa, adopted at the International Seminar on Prison Conditions in Africa, held at Kampala from 19 to 21 September 1996, which takes into account the limited effectiveness of imprisonment, especially for those serving short sentences, and the cost of imprisonment to the whole of society,

Noting the growing interest in many countries in measures that replace custodial sentences and the promising developments across the world in this regard,

Noting with appreciation that the importance of the Kampala Declaration was recognized by the Economic and Social Council in its resolution 1997/36 of 21 July 1997 on international cooperation for the improvement of prison conditions, to which the Declaration was annexed,

Bearing in mind the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)⁹⁵ and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules),⁹⁶

Considering that, in many countries in Africa, the level of prison overcrowding is inhuman,

Recalling that the African Charter on Human and Peoples' Rights⁹⁶ reaffirms the dignity inherent in a human being and the prohibition of degrading punishment and treatment,

Welcoming the success of the Zimbabwe community service scheme and its adoption by the Government of Zimbabwe following a three-year trial period,

Noting with appreciation that other African countries, including French-speaking and Portuguese-speaking countries, are interested in introducing community service as a penal sanction in their criminal justice systems,

The participants at the International Conference on Community Service Orders in Africa, held at Kadoma, Zimbabwe, from 24 to 28 November 1997, make the following Declaration:

1. The use of prison should be strictly limited to being a measure of last resort. Prisons represent a waste of scarce resources and human potential. The majority of prisoners who occupy them pose no actual threat to society.

2. The overcrowding in our prisons requires positive action through, *inter alia*, the introduction of community service.

3. Community service is in conformity with African traditions of dealing with offenders and with healing the damage caused by crime within the community. Furthermore, it is a positive and cost-effective measure to be preferred, whenever possible, to a sentence of imprisonment.

4. Community service should be effectively implemented and supervised and should involve a programme of work in which the offender is required to carry out a number of hours of voluntary work for the benefit of the community in his or her own time.

5. Governments, donors and civil society organizations are invited to support research, pilot schemes and other initiatives in this important area.

6. Countries that already have community service should take into account lessons learned from elsewhere and review their own schemes accordingly.

⁹⁴ See the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), contained in the annex to General Assembly resolution 45/110, and *Human Rights and Pre-trial Detention: Handbook of International Standards relating to Pre-trial Detention*, Professional Training Series, No. 3 (United Nations publication, Sales No. E.94.XIV.6).

⁹⁵ General Assembly resolution 40/33, annex.

⁹⁶ United Nations, *Treaty Series*, vol. 1520, No. 26363.

7. There should be promotion of community support through sensitization campaigns targeting public opinion and the development of statistical databases to measure the effectiveness of community service.

8. We encourage those countries that have not yet done so to develop non-custodial sentencing alternatives and to this end we commit ourselves to cooperating with and coordinating our action through other national committees on community service and/or interested groups, in order better to promote the scheme.

9. We adopt the Plan of Action attached hereto.

APPENDIX

Plan of action for the Kadoma Declaration on Community Service

Further to the Kadoma Declaration on Community Service, adopted by the participants at the International Conference on Community Service Orders in Africa, held at Kadoma, Zimbabwe, from 24 to 28 November 1997, the participants adopt the following Plan of Action:

1. Network

Establish a network of national committees on community service and other interested groups to provide mutual support and encouragement through:

- The provision of resource persons to assist at seminars in the subregion and elsewhere;
- The sharing of documentation (legislation, guidelines, administrative forms) and ideas;
- Coordination and support of new projects;
- Cooperation and assistance in administering the scheme;
- Assistance in staff training;
- Exchange visits.

2. Community service directory

Compile a community service directory. To this end, a home page will be established on the Internet informing interested persons of developments in this area and a book will be produced that includes:

- The contact points and addresses of all national committees on community service and those contacts engaged in community service schemes;
- A list of experts and resource persons;
- Contacts in interested countries;
- Interested groups and organizations around the world;
- Donor and government contacts.

The book will be distributed in different languages, including in French and English.

3. Newsletter

Issue a newsletter:

- To be produced by each national committee on community service at regular intervals and circulated to the network;
- To include initiatives undertaken, problems encountered, solutions found, reports on

workshops, a calendar of events, requests for support (for example, resource persons), statistics and other information;

- To be disseminated through the Internet or the mail, or both.

4. Research and data-gathering

Set up mechanisms for research and data-gathering whereby:

- Research findings and data gathered will be shared through the newsletter or via the Internet;
- Research projects will be identified (for example, on cost-benefit analyses) and funding application supported by the network;
- Joint research projects on the benefits, problems and effectiveness of community service where the scheme is applied will be undertaken regionally and internationally.

ANNEX II

Recommendations of the seminar entitled "Criminal justice: the challenge of prison overcrowding", held at San José, Costa Rica, from 3 to 7 February 1997

1. The Secretary-General should take measures to ensure that assistance is offered to States requesting it, either by drawing on existing resources or by creating a special budget heading, with a view to improving the physical conditions of prisons.

2. The Secretary-General should take measures to ensure that the relevant entities are furnished with the necessary resources to provide training for the administrative and operational personnel of the prisons of Member States requesting such training, with priority being accorded to the most overcrowded prisons.

3. Measures should be taken to ensure that international and regional financial institutions, such as the World Bank and the Inter-American Development Bank, adopt initiatives aimed at reducing prison overcrowding, including the provision of assistance for programmes of prison construction and the renovation of infrastructure.

4. The World Health Organization and regional bodies should be requested to incorporate, in their programmes of assistance, initiatives aimed at improving prison hospital facilities and the medical and hospital services offered to prisoners in States requesting such assistance.

5. Member States should urge the Secretary-General to promote and adopt, jointly with requesting Member States, measures to privatize individual prisons in such a way that they provide for security, the well-being and social reintegration of prisoners, profitable industrial use of prison labour and employment opportunities for prisoners after their release.

6. Member States should seek to establish in prisons human rights committees and work panels as alternative conflict-resolution mechanisms.

7. Member States should explore the possibility of adopting strategies to involve private enterprise in prison social rehabilitation programmes by creating enterprises and micro-enterprises to encourage investment in the vocational training of prisoners, employment creation within prisons and the reintegration of former prisoners into the labour force, thereby ensuring full application of the principles of social reintegration and rehabilitation of former prisoners within the productive mainstream of countries.

8. Member States should take measures to ensure the marketing of prison production through promotional and marketing programmes and to set up progressively workshops in prisons.