

A CRITICAL ANALYSIS OF THE CURRENT SITUATION OF FEMALE OFFENDERS IN AFRICAN COUNTRIES

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I. INTRODUCTION

The ever-rising number of prisoners around the world has remained the most underscored fact in current discourse within the international penal sector. According to the International Centre for Prison Studies, the world prison population is rising at a higher rate than the total population. Between 1998 and 2013, the estimated world prison population has increased by 25-30%, while the world population has risen by over 20%.¹ Although women prisoners are a small minority of the total prison population, there has also been a noticeable rise in women's imprisonment in recent years.² In some countries the rate of this increase has been higher than that of male prisoners.³

Given their patriarchal nature, structures within many African countries present considerable challenges in the protection and respect for women's rights to equality while fuelling widespread gender-based discrimination throughout the region.⁴

Prisons are a reflection of the societies within which they are located. Thus, it is unsurprising that this discrimination is made manifest within the penal institutions whose facilities were historically built and run to cope with the needs of the male majority. Consequently, the small numbers of women prisoners were simply admitted to these prisons and expected to cope with the same routines and facilities as men regardless of their different and more complex needs.

This remains the practice in several African countries and has resulted in the neglect of the human rights of these inmates without much consideration for the various international standards and recommendations advocating for humane and equitable treatment for all. The African prison system has become synonymous with a host of challenges, such as overcrowding, abusive living conditions, deficits of good governance, funding, and other

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¹Walmsley R., World prison population list, 10th edition. London: International Centre for Prison Studies. Available at: <http://www.prisonstudies.org/sites/prisonstudies.org/files/resources/downloads/wppl_10.pdf> [accessed 5 February 2015]. *This list was published with prison information available as of December 2013.*

²Bastick M, Townhead L., Women in prison: a commentary on the United Nations standard minimum rules for the treatment of prisoners. Geneva: Quaker United Nations Office; 2008. Available at: <<http://www.quono.org/geneva/pdf/humanrights/women-in-prison/WiP-CommentarySMRs200806-English.pdf>> [accessed 5 February 2015].

³ Ibid.

⁴ Women and Health: Today's Evidence Tomorrow's Agenda. Geneva: World Health Organization; 2009. Available at: <http://whqlibdoc.who.int/publications/2009/9789241563857_eng> [accessed 5 February 2015].

resources;⁵ while the plight of women prisoners within the region is an often ignored subject in governance, policymaking and research.⁶

The objective of this paper is to critically analyse how a continent in which prisons rank low on various lists of priorities has failed to adequately address the plight of incarcerated women. Guided by the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules) as well as research reports on various African prisons, this paper will provide practical steps that can be taken to facilitate the improvement in the treatment and protection of female inmates in developing countries using measures that have been adopted by some jurisdictions.

II. CONTEXT

The term ‘prisoner’ is defined as an individual who has been legally deprived of liberty and kept under involuntary confinement or custody as a punishment for a crime or while awaiting trial.⁷ For the purpose of this paper, the term will be used to refer to awaiting trial/remand prisoners, convicted/sentenced prisoners, debtors, lifers, prisoners on death row, prisoners detained as ‘civil lunatics’ or ‘criminal lunatics’, etc.

The Nigerian Prison Service recognizes five forms or legal reasons for the incarceration of female prisoners, namely⁸:

- Women against whom a court of competent jurisdiction has decided a case. These are usually brought into prison with ‘Conviction Warrants’.
- Women whose cases are pending before courts and are brought into prison with ‘Remand Warrants’ issued by such courts. These may either be awaiting trial or awaiting sentence.
- Women committed as judgement debtors by the courts for whom the judgement creditor deposits feeding money with the prison authorities.
- Women members of the armed forces who commit offences prohibited by the military and civilian accomplices committed to prison through court martial.
- Women committed to prison by the Inspector-General of Police or Chief of Army Staff for acts detrimental to state security under Decree No 2 of 1984 (now repealed).

The fastest growing segment of the world’s prisoner population is female.⁹ In Africa, typical examples can be seen in Seychelles (775%), Burkina Faso (304%), Sao Tome and

⁵Sarkin, J., ‘Prisons in Africa: An evaluation from a human rights perspective’, International Journal on Human Rights. Available at: <http://www.surjournal.org/eng/conteudos/getArtigo9.php?artigo=9,artigo_sarkin.htm>.

⁶ Ibid.

⁷ The Merriam-Webster Dictionary, ‘Definition-Prisoner’. Available at : <www.merriam-webster.com/dictionary/prisoner>.

⁸See Agomoh U and Ogun B (2000), ‘Manual for the Training of Prison Officer-Trainers on the United Nations Standard Minimum Rules for the Treatment of Prisoners’, PRAWA: Lagos, at pages 17-18.

⁹ United States Department of State, (2012) ‘A Practical Guide to Understanding and Evaluating Prison Systems’, Washington: United States Department of State.

Principe (166.7%), Benin (158.6%), Sierra Leone (106.1%), Republic of Guinea (104.9%), Uganda (95%), Kenya (89.6%), Mauritius (79.5%), Burundi (73.1%), Nigeria (68.1%), and Ghana (53.8%).¹⁰ In some countries the rate of this increase has been higher than that of male prisoners.¹¹ Furthermore, these offenders have unique needs, particularly when it comes to family considerations, causes for criminality, health care and psychology.¹²

Given the patriarchal nature of many African societies, women face various forms of discrimination that also play out within the continent's criminal justice systems. In general, African women have had fewer opportunities than men to access education and amass wealth or property. A lot of them, especially those originating from rural areas, are poorly educated, unaware of their rights in detention, unable to access and afford legal representation, post bail or pay fines.¹³ As a result of this, they face immense difficulties when accessing mechanisms of justice within their various communities.

It is argued in some quarters that women are less likely to commit violent and serious crimes than men. Hence, they are less likely to receive long prison sentences. Available data within the African region present diverse results. Reports from recent years indicate that a significant number of female detainees in South Africa, Malawi and Zambia are held for murder or violent crimes against their partners.¹⁴ This trend is not the same in countries such as Kenya, Botswana and Zimbabwe where women were more frequently arrested for non-violent crimes.¹⁵ In Benin, Sierra Leone, Nigeria, the Democratic Republic of Congo (DRC) and Egypt, women are detained in place of their brothers, husbands, sons or boyfriends who are crime suspects¹⁶ while in conservative religious countries like South Sudan, women are commonly detained for crimes such as adultery.¹⁷ In addition to this, in some societies, women may also be detained as a result of discriminatory laws and cultural practices, or tribal laws or traditions, rather than codified law.¹⁸

Regardless of the nature of their crimes, research has consistently proven that a considerable percentage of women offenders in Africa were victims of various forms of violence, mental health problems, and alcohol or drugs dependency¹⁹ even before their incarceration.²⁰ Sadly, their trauma is worsened by a number of critical problems within the

¹⁰ Please refer to Appendix 1 for further information.

¹¹ United States Department of State, (2012) 'A Practical Guide to Understanding and Evaluating Prison Systems', Washington: United States Department of State.

¹² Ibid.

¹³ Ackermann, M., (2014) 'Women in pre-trial detention in Africa: A review of the literature'. South Africa: Civil Society Prison Reform Initiative.

¹⁴ Ackermann, M., (2014) 'Women in pre-trial detention in Africa: A review of the literature'. South Africa: Civil Society Prison Reform Initiative, p. 7.

¹⁵ Ibid.

¹⁶ Agozino B (2005) Nigerian Women in Prison. In J Sudbury (Ed) Global Lockdown: Race, Gender and the Prison-Industrial Complex. New York: Routledge; Vetten L., (2008) The Imprisonment of Women in Africa. In J Sarkin (Ed) Human Rights In African Prisons. South Africa: HSRC Press.

¹⁷ Ibid.

¹⁸ Womankind Worldwide (2008), 'Taking Stock Update: Afghan Women and Girls Seven Years On'. London. p. 35. Available at: <<http://www.womankind.org.uk/takingstockdownloads.html>>. [Accessed 10 February 2015].

¹⁹ Barzano, P. 2013. The Bangkok Rules: An International Response to the Needs of Women Offenders, United Nations Asia and Far East Institute, Resource Material Series No. 90, p. 82–3. Available at: <http://www.unafei.or.jp/english/pdf/RS_No90/No90_11VE_Barzano.pdf> [accessed 2 February 2015].

²⁰ Penal Reform International, 'Penal Reform Briefing No. 3: Women in Prison – Incarcerated in a Man's World', London, 2008, p. 2; Also see: United Nations Special Rapporteur on Violence Against Women. 2013. Pathways to, Conditions and Consequences of incarceration for women, A/68/340, 21 August 2013, paragraphs 6 and 7, <www.ohchr.org/Documents/Issues/Women/A-68-340.pdf> [accessed 2 February 2015]; Tibatemwa-

region's penal institutions which disproportionately affect women and which threaten their rights to human dignity and security of person. These include concerns around reproductive health needs, mental disorders, increased vulnerability to abuse in prison, as well as harassment and attempts of exploitation by law enforcement officers.²¹

According to Medlicott, female imprisonment ought to be a specialised area of policy; instead what has transpired is that the women's prison population 'has been subsumed into the male population' with little differentiation between the two in terms of reform decisions.²² This is probably because regardless of their high population growth rate, of the 99,0215 recorded incarcerated persons in Africa, 29,481 are women.²³ Based on this data, women only make up about 2.97 % of those incarcerated in Africa's already overstretched penal system, ensuring that their specific needs are seldom catered for.²⁴

It is an accepted fact that the prison service in many countries is generally not a priority area of governance and as a result is often ignored and/or underfunded. However, it is also important to note that whenever the rights of women prisoners are discussed, more attention is placed on those in penal institutions to the detriment of those in police detentions.

In police detention, women are vulnerable to sexual abuse and other forms of violence which may be used to force confessions to offences they have not committed. With the use of an example in a report to the African Commission on Human and Peoples Rights, the Special Rapporteur on Prisons and Conditions of detention noted that the conditions for women held at police stations in Namibia were very poor, with poor ventilation and sleeping facilities.²⁵

Apart from women held in police detention, another vulnerable group of imprisoned women are female combatants held as prisoners of war. These women are few in number because they are in the minority in armed forces and groups and are also less likely to be in frontline areas where they could be captured.²⁶ The number of women held for security reasons related to armed conflict or internal disturbances is also very small in comparison with that of men, mainly because they are less likely to be perceived as combatants or potential combatants.²⁷ But then, given the proliferation of intra-state conflicts in Africa, there is need for the rights of imprisoned women combatants to become another priority area in policy discourse and research.

Ekirikubinza L (1999) Women's Violent Crime in Uganda. Kampala: Fountain Publishers; Vetten L, (2008) The Imprisonment of Women in Africa. In J Sarkin (Ed) Human Rights In African Prisons. South Africa: HSRC Press.

²¹Vetten L., (2008) The Imprisonment of Women in Africa. In J Sarkin (Ed) Human Rights In African Prisons. South Africa: HSRC Press.

²²Quoted in Vetten L., (2008) The Imprisonment of Women in Africa. In J Sarkin (Ed) Human Rights In African Prisons. South Africa: HSRC Press. This statement was actually made with reference to the United Kingdom. However, the author of this paper believes that it holds true even in the case of African countries.

²³Calculated based on available prison data on <<http://www.prisonstudies.org/map/africa>>. [Accessed 18 February 2015].

²⁴Ibid.

²⁵ACHPR (2001) Prisons in Namibia. Report on a visit 17-28 September 2001. Special Rapporteur on Prisons and Conditions of Detention in Africa.

²⁶Charlotte Lindsey, Women Facing War, ICRC, Geneva, 2001, p. 163, available at <<http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/p0798>> [Accessed 10 February 2015].

²⁷Ibid.

III. INTERNATIONAL LAW AND THE RIGHTS OF WOMEN PRISONERS

International law provides the necessary model, best practice and assessment framework for African prisons and their obligations to women prisoners. It is for this reason that this paper will commence the analysis of its subject matter with an overview of existing international standards.

In 1955, the First United Nations Congress on the Prevention of Crime and Treatment of Offenders adopted the most recognised non-treaty text within the international legislative framework on detention. This text, known as the United Nations Standard Minimum Rules for the Treatment of Offenders (UNSMR) provides the basic guidelines to be observed by states in the fulfilment of their obligations with regard to incarcerated persons.²⁸ But then, as far as its specific application to women is concerned, the UNSMR addresses only the separation of women and men, the medical care of pregnant detainees and provisions for children to be imprisoned with their mothers.²⁹

In 1988 and 1990, the UN adopted three additional instruments on imprisonment. They are: the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (1988),³⁰ the Basic Principles of the Treatment of Prisoners (1990),³¹ and the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) (1990). Although they all attempted to fill existing gaps in the expected standards on the treatment of prison inmates, these three instruments failed to address the UNSMR's inadequacies with respect to the particular needs and vulnerabilities of women in detention.

The inadequate protection offered to women prisoners by these instruments did not deter international discourse on the issue which was debated at about five annual United Nations Congresses on the Prevention of Crime and Treatment of Offenders—from the Sixth Congress held in 1980 to the Eleventh Congress in 2005.³² At the Tenth Congress, member states adopted the Vienna Declaration on Crime and Justice: Meeting the Challenges of the 21st Century,³³ in which they avowed to take into account and address, not only within the United Nations Crime Prevention and Criminal Justice Programme, but also at domestic level, any disparate impact of programmes and policies on women, and to develop recommendations relevant to the unique needs of female detainees.³⁴

²⁸ United Nations Standard Minimum Rules for the Treatment of Prisoners, 30 August 1955, <<http://www.refworld.org/docid/3ae6b36e8.html>> [accessed 2 February 2015].

²⁹ United Nations Standard Minimum Rules for the Treatment of Prisoners, 30 August 1955, Rules 8(a), 23 & 53, Available at: <<http://www.refworld.org/docid/3ae6b36e8.html>> [accessed 2 February 2015]

³⁰ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, A/RES/43/173, 9 December 1988, Principle 52. Available at: <<http://www.un.org/documents/ga/res/43/a43r173.htm>> [accessed 2 February 2015].

³¹ Basic Principles of the Treatment of Prisoners, 45/111, 14 December 1990, Available at: <<http://www.un.org/documents/ga/res/45/a45r111.htm>> [accessed 2 February 2015].

³² Barzano, P. (2013). The Bangkok Rules: An International Response to the Needs of Women Offenders. United Nations Asia and Far East Institute, Resource Material Series No. 90, p. 85. Available at: <http://www.unafei.or.jp/english/pdf/RS_No90/No90_11VE_Barzano.pdf> [accessed 2 February 2015].

³³ The Vienna Declaration on Crime and Justice: Meeting the Challenges of the 21st Century, A/RES/55/59, 17 January 2001, Available at: <http://www.unodc.org/pdf/crime/a_res_55/res5559e.pdf> [accessed 2 February 2015].

³⁴ United Nations Economic and Social Council, Official Record, Supplement No. 10, Commission on Crime Prevention and Criminal Justice: Report on the Nineteenth Session (4 December 2009 and 17-21 May 2010),

In 2003 and 2008, the United Nations General Assembly called for states to acknowledge the problems faced by women in detention and to consider the impact of imprisoning women with child care duties, as well as babies or small children incarcerated with mothers.³⁵ At the 18th session of the Commission on Crime Prevention and Criminal Justice in 2009, a resolution submitted by the Government of Thailand was adopted, acknowledging as a premise to the Bangkok Rules that prison facilities are built primarily for males. It had therefore become necessary to address and accommodate female detainees' specific needs.³⁶

In 2009, a group of experts from 25 countries, met in Bangkok to develop supplementary rules specific to the treatment of women in detention. At the 12th United Nations Congress on Crime Prevention and Criminal Justice held in Salvador, Brazil, the inter-governmental expert group reported on the outcome of the Bangkok meeting and presented the draft version of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).³⁷ This was followed by the adoption of a draft resolution by the Economic and Social Council on 22 July 2010 and finally, on 21 December 2010, the General Assembly adopted the Bangkok Rules without a vote.³⁸

The guiding objective for the adoption of the Bangkok Rules was not for it to replace the UNSMR, but rather to complement it with respect to the treatment of women prisoners and offenders. The Bangkok Rules sought to do this, either by providing clarification on certain UNSMR rules or by adding provisions that will ensure that the UNSMR standards effectively respect the rights of all prisoners without discrimination. The Bangkok Rules on the treatment of female prisoners are applicable right from the moment of pre-trial detention. It also addresses challenges faced by women in relation to physical and mental health care and the links between incarceration and prior victimisation.

In addition to the Bangkok Rules, several other international instruments advocating for the respect and protection of the rights of women may be applicable within the African penal system. They include: the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT); the United Nations Convention on the Rights of the Child (CRC); among others.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) advocates for women's rights to equality, with specific focus on the exercise of

E/CN.15/2010/30, p. 27 & 28, Available at:

<http://www.unodc.org/documents/commissions/CCPCJ_session19/Draft_report/E2010_30eV1054137.pdf> [accessed 2 February 2015].

³⁵ United Nations General Assembly Resolutions 58/183 of 22 December 2003 and 63/241 of 24 December 2008.

³⁶ Penal Reform International & Quaker United Nations Office. 2011. Briefing on the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules'), p. 2, Available at: <http://www.penalreform.org/wp-content/uploads/2013/05/PRI-QUNO_English_1-1.pdf> [accessed 2 February 2015].

³⁷ Penal Reform International & Quaker United Nations Office. 2011. Briefing on the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules'), p. 6, Available at: <http://www.penalreform.org/wp-content/uploads/2013/05/PRI-QUNO_English_1-1.pdf> [accessed 2 February 2015].

³⁸ United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), A/C.3/65/L.5, 6 October 2010, Available at: <<http://www.ohchr.org/Documents/ProfessionalInterest/BangkokRules.pdf>> [accessed 2 February 2015].

civil rights. Currently, South Sudan, Sudan and Somalia are the only African states not to have signed or ratified CEDAW.³⁹

The United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) and the accompanying Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment are authoritative umbrella texts that protect all persons against torture and ill treatment whilst deprived of their liberty. Its provisions are gender-neutral and must be applied to all incidents which fit the description of torture or other forms of ill-treatment listed in UNCAT.⁴⁰

The guiding principles enshrined in the United Nations Convention on the Rights of the Child (CRC) are relevant to women in detention and mothers separated from their children through imprisonment; especially with respect to the fact that States Parties are expected to consider the child's best interest, as well as his or her right to family unity, before separating him or her from the parent.⁴¹

IV. APPLICABILITY OF THE BANGKOK RULES TO THE SITUATION OF FEMALE OFFENDERS IN AFRICA

Driven by the significant increase of female detainees worldwide,⁴² the Bangkok Rules set out comprehensive guidelines and standards for the treatment of female prisoners. The instrument recognises women as a vulnerable group within the criminal justice system and aims to address the various problems affecting them.

The first Bangkok Rule which supplements Rule 6 of the United Nations Standard Minimum Rules on the Treatment of Offenders (UNSMR) emphasises the need for the practice of the principle of non-discrimination through adequate consideration for the distinctive needs of women prisoners and their children. However a critical review of the present conditions of several African prisons reveal diverse levels of structural, resource and institutional challenges which make it difficult for such obligations to be met. In some cases, and as will be pointed out in this section, African countries have managed to transform existing impediments into opportunities for innovation and best practices that can be replicated across the continent.

³⁹ United Nations Convention on the Elimination of Discrimination against Women, 34/180, 18 December 1979, Available at: <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>> [accessed 2 February 2015]; List of signatories available at: <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en> [accessed 2 February 2015].

⁴⁰ United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/RES/39/46, 10 December 1984, Available at: <<http://www.refworld.org/docid/3ae6b3a94.html>> [accessed 14 January 2015].

⁴¹ United Nations Convention on the Rights of the Child, 44/25, 20 November 1989, Articles 5, 8, 9(1) and 16. Available at: <<http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>> [accessed 2 February 2015].

⁴² Penal Reform International & Quaker United Nations Office. 2011. Briefing on the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules'), p. 2, http://www.penalreform.org/wp-content/uploads/2013/05/PRI-QUNO_English_1-1.pdf [Accessed 22 February 2014].

A. Humane Treatment during Inmate Admission and Registration

Rule 3

1. The number and personal details of the children of a woman being admitted to prison shall be recorded at the time of admission. The records shall include, without prejudicing the rights of the mother, at least the names of the children, their ages and, if not accompanying the mother, their location and custody or guardianship status.
2. All information relating to the children's identity shall be kept confidential, and the use of such information shall always comply with the requirement to take into account the best interests of the children.

Women prisoners are especially vulnerable at the time of their admission due to a variety of factors, such as the trauma of separation from children, families and communities, past victimisation and fears for their safety, the particular stigma associated with their imprisonment, minimal experience of contact with state authorities, or low educational and economic status, among others. Although Rule 3 of the Bangkok Rules recommends the documentation of necessary information on the children of inmates during their registration process. Through preliminary research on the Rights of Children of Incarcerated Persons, PRAWA established that this practice is yet to be the norm in countries like Nigeria where the rights of such children remain an undiscussed subject.⁴³

However, with respect to inmate admission, in many African countries there are Prison Reception Boards made up of the officer in charge of the prison (or his/her designate), prison officers drawn from the social welfare, medical, psychology, and vocational workshop departments who will interview the inmate usually within the first 24 hours of his/her admission into the prison. The purpose of this is to identify the risks and needs of the inmates and determine which cell/section of the prison the inmate will be accommodated and other programmes or services that will be made available to the inmate. Also, in some of the countries, the prison/correctional services have developed a Prisoners' Handbook containing information on the prison rules and regulations, and information on where the inmate can seek help when in need. The Kenyan Prison Service has such a Prisoners Handbook as well as big sign boards inside many of their prisons displaying the rights of the prisoners, courtesy of the Kenyan Human Rights Commission and others displaying some of the services provided by NGOs. PRAWA, under the Human Rights Training Integrated (HRTI) Project, assisted the Nigeria Prison Service to produce a Prisoners' Information Handbook on Rights and Responsibilities of Prisoners in the English language and five other major Nigerian local languages – Pidgin English, Ibo, Yoruba and Hausa. These were distributed by the Nigeria Prison Service to inmates along with posters and stickers on sensitising inmates on their 'Rights and Responsibilities' and on 'How to Access the Prison Complaints and Redress Mechanisms'. In the case of foreign nationals, many African countries do notify the respective consular offices of the detention of their national and they allow visits of such inmates by the consular representative.

B. Humane Treatment during Inmate Allocation

Rule 4

Women prisoners shall be allocated, to the extent possible, to prisons close to their home or place of social rehabilitation, taking account of their caretaking

⁴³Osude U & Imoka U (2015), Respecting the Rights of Children of Incarcerated Person in Nigeria, Nigeria: PRAWA.

responsibilities, as well as the individual woman's preference and the availability of appropriate programmes and services.

Many imprisoned women are mothers and usually primary caregivers for their children.⁴⁴ The small numbers of imprisoned women mean that there are fewer prisons for them, resulting in women often being imprisoned further away from their homes and having limited opportunity for interactions with their children.⁴⁵ This causes difficulties for the woman in maintaining her family ties and is especially a problem if she has dependent children.

The existence of very few women's prisons also results in the collective accommodation of women convicted for a wide range of offences in a prison with a high level of security, needed only for very few women. For example, Nigeria has 239 penal facilities⁴⁶ across its 36 states but only one exclusive female prison in KiriKiri Lagos State. This prison is a maximum security prison but is used for the custody of women prisoners within the Lagos metropolis regardless of their offence.

When a mother is imprisoned, her family will often break up, resulting in many children ending up in state care institutions or alternative care. Imprisonment far from home also complicates a woman's resettlement after release.

Recognising these challenges, in 2001, the Kenya Prison Service, under the country's prison reform process, commenced an open door policy that resulted in the use of a Remote Parenting System for inmate rehabilitation.⁴⁷ Given the sizeable percentage of single-parent prison inmates in Kenya, the system encourages the maintenance and improvement of family relations and the mental health of the inmates by providing them with the opportunity for unrestricted quality time with their children.

The Remote Parenting and Prison Open days occur every quarter at the end of the school terms. Currently, the law prohibits inmates from receiving visitors below the age of 18 years. Through the Remote Parenting System, the Kenya Prison Service (using the inmate contact information written on their arrest warrants) endeavours to inform members of the inmates' families of the date for the open days. On those days, prisoners are given the opportunity to discuss their children's performance in school through their academic reports and also advise them on the importance of leading crime free lives. This admirable practice is funded by the Kenya Prison Service. It encourages good behaviour and promotes the acceptance of the offenders by the nuclear family and the community at large, hence, positively impacting the smooth re-integration of offenders at the end of their incarceration.

⁴⁴ Declaration on women's health in prison: correcting gender inequity in prison health. Copenhagen: World Health Organization Regional Office for Europe; 2009. Available from: <http://www.euro.who.int/__data/assets/pdf_file/0004/76513/E92347.pdf> [Accessed 20 February 2015].

⁴⁵ Vetten L & Bhana K (2005). The Justice For Women Campaign: Incarcerated Domestic Violence Survivors In Post-Apartheid South Africa. In J Sudbury (Ed.) *Global Lockdown: Race, Gender And The Prison Industrial Complex*. New York: Routledge.

⁴⁶ The Nigerian Prisons Statistics, June 2013. Available at: <<http://www.prisons.gov.ng/about/statistical-info.php>> [Accessed 20 February 2015].

⁴⁷ PRAWA, Compendium of Best Prison Practices. Available Online at: www.prawa.org. [Accessed 20 February 2015].

C. Humane Approach to Personal Hygiene

Rule 5

[*Supplements rules 15 and 16 of the Standard Minimum Rules for the Treatment of Prisoners*]

The accommodation of women prisoners shall have facilities and materials required to meet women's specific hygiene needs, including sanitary towels provided free of charge and a regular supply of water to be made available for the personal care of children and women, in particular women involved in cooking and those who are pregnant, breastfeeding or menstruating.

Women in prisons have more specific health issues than men; the most prominent are related to reproductive health such as menstruation, menopause, pregnancy and breastfeeding.⁴⁸ However, given the poor state of prison infrastructure in various African countries, women have little or no access to adequate facilities that can meet their accommodation or health needs. Most times, they are housed in prisons specifically built for male prisoners. A typical example can be seen in Uganda where the women's wing of the Masaka Prison was created from what were originally punishment cells for men who broke prison regulations.⁴⁹ These cells lacked proper ventilation and were cold.⁵⁰ During a visit to Abéché prison (Chad) at the end of May 2011 and in March 2012, women prisoners told Amnesty International delegates that to protect their privacy from male inmates and male prison guards, they waited until after dark or in the early morning to shower or go to the toilet.⁵¹

Apart from the poor accommodation facilities available for women prisoners, in several African countries like Zimbabwe, Chad, Ethiopia, Malawi, Mozambique, Nigeria and Uganda, these vulnerable individuals do not have easy access to sanitary towels and must either depend on others to supply the basic need or improvise with cloths, newspapers, tissues, pieces of blanket or prison uniforms.⁵²

In a research report on Zimbabwe, women interviewed spoke of how once they had been locked up for the day, they chose not to change pads or use the waste buckets so as not to expose fellow inmates to the smell of blood.⁵³ They added that these buckets could also overflow and users become splashed with bodily waste when using them while babies who crawled about at night risked coming in contact with its contents.⁵⁴ According to Amnesty International, the lack of access to clean water and adequate sanitation facilities in Chadian prisons contributes to women's ill-health and also exposes children, infants and babies living with their mothers in the prisons to infections which can be life-threatening.⁵⁵

⁴⁸ Declaration on women's health in prison: correcting gender inequity in prison health. Copenhagen: World Health Organization Regional Office for Europe; 2009. Available at: <http://www.euro.who.int/__data/assets/pdf_file/0004/76513/E92347.pdf> [Accessed 7 February 2015].

⁴⁹ Tibatemwa-Ekirikubinza L (1999) Women's Violent Crime in Uganda. Kampala: Fountain Publishers.

⁵⁰ Ibid.

⁵¹ Amnesty International, (2012) 'Chad: "We are all dying here" human Rights Violations in Prisons'. United Kingdom: Amnesty International Ltd.

⁵² Vetten L., (2008) The Imprisonment of Women in Africa. In J Sarkin (Ed) Human Rights In African Prisons. South Africa: HSRC Press. p. 137; Also see Amnesty International, (2012) 'Chad: "We are all dying here" human Rights Violations in Prisons'. United Kingdom: Amnesty International Ltd

⁵³ Samakaya-Makarati J (2003) Female Prisoners in Male Prisons. In C Musengezi & I Staunton (Eds) A tragedy of Lives: Women in Prison in Zimbabwe. Harare: Weaver Press.

⁵⁴ Ibid.

⁵⁵ Amnesty International, (2012) 'Chad: "We are all dying here" human Rights Violations in Prisons'. United Kingdom: Amnesty International Ltd.

In order to fill this gap, in some African countries, faith-based organisations provide donations of sanitary towels. In 2013, PRAWA introduced a public appeal campaign to generate individual support towards provision of sanitary towels for female prisoners in Nigeria. This scheme is currently running in Kirikiri Female Prison Lagos, Lagos State as a pilot and was extended to Suleja Prison in Abuja. The campaign is for the donation of 500 naira (approximately 3.2 USD) for the provision of a monthly supply for a female prisoner. There are awareness flyers on this initiative for the general public reflecting opportunity for one-off and regular donations. Water bore holes have also been constructed in few prisons to help address the problem of water shortage and high cost of purchasing of water. These have been constructed either by the government or as a constituency project of some of the elected legislators/politicians, for example, the construction of a water bore hole at Auchi prison in Edo State of Nigeria is one of such interventions.

D. Humane Provision of Health Care Services, Mental Health Care and Substance Abuse Treatment Programmes

[Rules 6 to 17 Supplementing rules 22 to 26 of the UNSMR]

Prisoners do not represent a homogeneous segment of society. Many have lived at the margins of society, are poorly educated and come from socioeconomically disadvantaged groups. They often have unhealthy lifestyles and addictions such as alcoholism, smoking and drug use, which contribute to poor general health and put them at risk of disease. The prevalence of mental health problems is very high: some prisoners are seriously mentally ill and should be in a psychiatric facility, not prison.

Women prisoners frequently suffer from mental health problems, among which post-traumatic stress disorder, depression and self-harming are regularly reported.⁵⁶ They suffer from mental health problems to a higher degree than for both male prisoners and the general population,⁵⁷ with rates as high as 90%.⁵⁸ Evidence shows that women prisoners are more likely to self-harm and commit suicide than male prisoners, while this is the opposite in the community.⁵⁹

Communicable diseases such as HIV, hepatitis and tuberculosis are more prevalent in prisons than in the community.⁶⁰ Women are at greater risk than men of entering prison with sexually transmitted infections such as chlamydia, gonorrhoea, syphilis and HIV/AIDS, often as a result of past high-risk sexual behaviours including prostitution, sex work and being

⁵⁶ Declaration on women's health in prison: correcting gender inequity in prison health. Copenhagen: World Health Organization Regional Office for Europe; 2009. Available at: <http://www.euro.who.int/__data/assets/pdf_file/0004/76513/E92347.pdf> [Accessed 20 February 2015].

⁵⁷ Bastick M, Townhead L. Women in prison: a commentary on the United Nations standard minimum rules for the treatment of prisoners. Geneva: Quaker United Nations Office; 2008. Available at: <<http://www.quno.org/geneva/pdf/humanrights/women-in-prison/WiP-CommentarySMRs200806-English.pdf>> [Accessed 20 February 2015].

⁵⁸ Rutherford M. The Corston report and the government's response: the implications for women prisoners with mental health problems. London: Sainsbury Centre for Mental Health; 2008. Available at: <http://www.scmh.org.uk/pdfs/scmh_corston_response.pdf> [Accessed 20 February 2015].

⁵⁹ Unequal, unfair, ineffective and inefficient: gender inequity in health. Why it exists and how we can change it. Final report to the WHO Commission on Social Determinants of Health. Geneva: World Health Organization; 2007. Available at: <http://www.who.int/social_determinants/resources/csdh_media/wgekn_final_report_07.pdf> [Accessed 20 February 2015].

⁶⁰ Health in prisons project. Copenhagen: World Health Organization Regional Office for Europe; 2011. Available at: <<http://www.euro.who.int/prisons>> [Accessed 20 February 2015].

victims of sexual abuse.⁶¹ Because of the short sentences that women often serve, there is a high turnover rate in women's prisons which means that there is an intensive interaction between the prison, the community and wider society.⁶²

Rule 6

The health screening of women prisoners shall include comprehensive screening to determine primary health-care needs, and also shall determine:

- The presence of sexually transmitted diseases or blood-borne diseases; and, depending on risk factors, women prisoners may also be offered testing for HIV, with pre- and post-test counselling;
- Mental health-care needs, including post-traumatic stress disorder and risk of suicide and self-harm;
- The reproductive health history of the woman prisoner, including current or recent pregnancies, childbirth and any related reproductive health issues;
- The existence of drug dependency;
- Sexual abuse and other forms of violence that may have been suffered prior to admission.

The South African Correctional Services Act prescribes a health status examination of sentenced prisoners upon admission, which includes testing for contagious and communicable diseases.⁶³ A 2012 study conducted in two female prisons revealed that female respondents did not receive annual general medical check-ups, routine pap-smears or mammograms.⁶⁴ Access to health care was reported to be periodic and usually provided upon request by the detainee.⁶⁵ This notwithstanding, some African countries have introduced programmes to address the above recommendations of the Bangkok Rules. For example, the Zambia Prison Service has a comprehensive programme for screening, counselling and treatment of inmates which it is running in partnership with NGOs.

Rule 12

Individualized, gender-sensitive, trauma-informed and comprehensive mental health care and rehabilitation programmes shall be made available for women prisoners with mental health-care needs in prison or in non-custodial settings.

Rule 13

Prison staff shall be made aware of times when women may feel particular distress, so as to be sensitive to their situation and ensure that the women are provided appropriate support.

⁶¹ Jones CM, McCann M, Nugent Z. Scottish Prisons' Dental Health Survey 2002. Edinburgh: Scottish Executive; 2004. Available at: <<http://www.scotland.gov.uk/Publications/2004/02/18868/32855>> [Accessed 20 February 2015].

⁶² Declaration on women's health in prison: correcting gender inequity in prison health. Copenhagen: World Health Organization Regional Office for Europe; 2009. Available at: <http://www.euro.who.int/__data/assets/pdf_file/0004/76513/E92347.pdf> [Accessed 20 February 2015].

⁶³ Correctional Services Act (Act 111 of 1998) as amended, Section 5(b). Available at: <<http://www.dcs.gov.za/Publications/Legislation/DCS%20Act%20111%20of%202008.pdf>> [accessed 2 February 2015].

⁶⁴ Artz, L, Hoffman-Wanderer, Y & Moul, K. 2012b. Hard Time(s): Women's Pathways to Crime and Incarceration. Gender, Health and Justice Research Unit, University of Cape Town, p. 239. Available at: <http://www.ghjru.uct.ac.za/pdf/hard_times.pdf> [accessed 7 February 2015].

⁶⁵ Ibid.

An example of this is PRAWA's provision of trauma counselling and development of a checklist/protocol and a manual for prison health workers to use in the screening of inmates as well as provision of training for prison health workers⁶⁶ on this as well as conducting periodic medical outreach to prisons in partnership with Association of Christian Medical Doctors and Medical Students and Medix Frontiers (a student medical association in Nigeria).

Rule 15

Prison health services shall provide or facilitate specialized treatment programmes designed for women substance abusers, taking into account prior victimization, the special needs of pregnant women and women with children, as well as their diverse cultural backgrounds.

Some countries have programmes addressing these issues that are provided either by the prison service, the health department or by NGOs. For example, since 2013 PRAWA introduced in Nigeria a faith-based drug abuse prevention and awareness programme targeting both inmates and prison officers. This intervention has proved to be very successful, facilitating joint initiatives between inmates and prison authorities on prevention of drug/substance abuse in prison. So far, this intervention has been implemented in the following seven states: Cross Rivers, Edo, Rivers, Delta, Ogun, Imo, and Enugu States covering over 30 prisons and reaching about 25 percent of the total inmate population in these prisons. PRAWA has also developed a simplified awareness manual for inmates and others (in and out-of-school youths). Giving the effect of substance abuse on crime, PRAWA also has introduced this same scheme in secondary schools in one of the states of Nigeria (Enugu State).

E. Women Prisoners and Humane Protection against Abuse and Violence

Rule 7

[Supplements rules 22 to 26 of the Standard Minimum Rules for the Treatment of Prisoners]

1. If the existence of sexual abuse or other forms of violence before or during detention is diagnosed, the woman prisoner shall be informed of her right to seek recourse from judicial authorities. The woman prisoner should be fully informed of the procedures and steps involved. If the woman prisoner agrees to take legal action, appropriate staff shall be informed and immediately refer the case to the competent authority for investigation. Prison authorities shall help such women to access legal assistance.
2. Whether or not the woman chooses to take legal action, prison authorities shall endeavour to ensure that she has immediate access to specialized psychological support or counselling.
3. Specific measures shall be developed to avoid any form of retaliation against those making such reports or taking legal action.

In many African prisons, as a result of resource inadequacy, services designed specifically for women to help them feel safe and supported on gender-specific issues, are

⁶⁶This initiative was funded by the International Rehabilitation Council for Torture Victims with funds from Oak Grants for implementation in the four prisons in Enugu State Nigeria (Nsukka, Oji River, Enugu and Ibitolu Prisons).

seldom provided.⁶⁷ Many women prisoners in Africa are not only victims of gender based violence before incarceration; given the poor level of security available in penal institutions, they are also victims of violence during incarceration.

According to the UNSMR, women should be kept separate from men. But then, dwindling prison capacity means that women have to be incarcerated with men in many African countries. In Chad, the lack of effective separation between women and men, and the presence of male security officers and prison staff in women prisoners' courtyards, jeopardized both the safety and security of women detainees.⁶⁸ During their visits, Amnesty International noted that even in prisons with separate accommodation for women, it was easy for men to move to and from women's courtyards and cells.⁶⁹ In Uganda women prisoners were only separated from their male counterparts at night.⁷⁰ In Natitigou Prison (Benin), women and men used the same toilet and shower facilities.⁷¹

Where women have no option but to share facilities, the limitations of separation and insufficient female wardens leaves them exposed to physical, sexual and psychological abuse from male prisoners which meagre numbers of staff cannot prevent and, indeed, sometimes participate in.⁷² Women held in Tunisian prisons have been reported to be subjected to sexual violence, electric shocks, beatings, cigarette burns and food and sleep deprivation.⁷³ Tunisian prisons are not the only ones accused of physical abuse. Such reports have also been received from South Africa, Malawi, Uganda, and Namibia.⁷⁴

It is worthy to note that in countries such as Namibia, Ethiopia⁷⁵, the Gambia⁷⁶ and DRC (at least in one prison)⁷⁷, women are guarded primarily by women. But this is not the case in police detention.⁷⁸ There have been reports of sexual violence against women during police

⁶⁷ Women in prison: a review of the conditions in Member States of the Council of Europe. Brussels: Quaker Council for European Affairs; 2007. Available at: <<http://www.quaker.org/qcea/prison/Final%20Report%20Part1.pdf>> [Accessed 20 February 2015].

⁶⁸ Amnesty International, (2012) 'Chad: "We are all dying here" human Rights Violations in Prisons'. United Kingdom: Amnesty International Ltd.

⁶⁹ Ibid.

⁷⁰ ACHPR (2001) Prisons in Uganda. Report on a visit 11-22 March 2001. Special Rapporteur on Prisons and Conditions of Detention in Africa.

⁷¹ ACHPR (2000) Prisons in Benin. Report on a visit 23-31 August 1999 Series IV, No. 6. Special Rapporteur on Prisons and Conditions of Detention in Africa.

⁷² Nana Adae-Amoakoh, 'Behind Closed Doors: Crimes against Women in Africa's Prisons', 2 May 2012, ThinkAfricaPress. Available at: <<http://thinkafricapress.com/gender/prison-crimes-women-africa>> [Accessed 2 February 2015].

⁷³ Vetten L., (2008) The Imprisonment of Women in Africa. In J Sarkin (Ed) Human Rights In African Prisons. South Africa: HSRC Press.

⁷⁴ Ibid.

⁷⁵ ACHPR (2004) Prisons in Ethiopia. Report on a visit 15-29 March 2004. Special Rapporteur on Prisons and Conditions of Detention in Africa.

⁷⁶ ACHPR (1999) Prison in the Gambia. Report on a visit 21-26 June 1999, Series IV, No. 5. Special Rapporteur on Prisons and Conditions of Detention in Africa.

⁷⁷ OMCT (2006) Violence against Women in the Democratic Republic of Congo (DRC). Alternative report prepared for the Committee on the Elimination of Discrimination against Women, 36th session 7-25 August. Available at: <http://www.omct.org/pdf/VAW/2006/CEDAW_36th/CEDAW36_DRC_en.pdf> [Accessed 20 February 2015].

⁷⁸ Vetten L., (2008) The Imprisonment of Women in Africa. In J Sarkin (Ed) Human Rights In African Prisons. South Africa: HSRC Press.

interrogations and/or detention in some countries such as Nigeria⁷⁹, South Africa⁸⁰, and Congo⁸¹.

In countries such as Egypt, humiliation is adopted as a method of torture against female relatives of suspected Islamist militants who are asked to strip naked and are then placed in closed rooms with naked male detainees.⁸²

F. Humane Treatment of Pregnant Women, Breastfeeding Mothers and Mothers with Children in Prison

[Supplements rule 23 of the Standard Minimum Rules for the Treatment of Prisoners]

Rule 48

1. Pregnant or breastfeeding women prisoners shall receive advice on their health and diet under a programme to be drawn up and monitored by a qualified health practitioner. Adequate and timely food, a healthy environment and regular exercise opportunities shall be provided free of charge for pregnant women, babies, children and breastfeeding mothers.

2. Women prisoners shall not be discouraged from breastfeeding their children, unless there are specific health reasons to do so.

3. The medical and nutritional needs of women prisoners who have recently given birth, but whose babies are not with them in prison, shall be included in treatment programmes.

Pregnant women rarely receive adequate ante-natal and post-natal care in prison. Prison services in the large majority of African countries are under-resourced and understaffed. Consequently, pregnant and breastfeeding mothers are not given enough and adequate food to meet the minimum level of nutritional requirements for themselves and their babies.⁸³

In Botswana, the requirement for a healthy pregnancy, such as adequate nutrition, exercise, fresh air and reasonably sanitary conditions, were reported as not being met.⁸⁴ In countries such as the Central African Republic⁸⁵, Benin⁸⁶, Malawi⁸⁷, Namibia⁸⁸,

⁷⁹Agozino B (2005) Nigerian Women in Prison. In J Sudbury (Ed) Global Lockdown: Race, Gender and the Prison-Industrial Complex. New York: Routledge.

⁸⁰Vetten L., (2008) The Imprisonment of Women in Africa. In J Sarkin (Ed) Human Rights In African Prisons. South Africa: HSRC Press.

⁸¹OMCT (2006) Violence against Women in the Democratic Republic of Congo (DRC). Alternative report prepared for the Committee on the Elimination of Discrimination against Women, 36th session 7-25 August. Available at: <http://www.omct.org/pdf/VAW/2006/CEDAW_36th/CEDAW36_DRC_en.pdf> [Accessed 20 February 2015].

⁸²Vetten L., (2008) The Imprisonment of Women in Africa. In J Sarkin (Ed) Human Rights In African Prisons. South Africa: HSRC Press.

⁸³ Amnesty International, (2012) 'Chad: "We are all dying here" human Rights Violations in Prisons'. United Kingdom: Amnesty International Ltd.

⁸⁴Modie-Moroka T & Sossou M (2001) Women, Criminality and Multi-focal Empowerment Responses: Some Prospects for Botswana. Journal of Social Development in Africa 2(16): 5-30.

⁸⁵ACHPR (2000) Prisons in the Central African Republic. Report on a Visit 19-29 June 2000 Series IV, No. 7. Special Rapporteur on Prisons and Conditions of Detention in Africa.

⁸⁶ACHPR (2000) Prisons in Benin Report on a visit 23-31 August 1999 Series IV, No. 6. Special Rapporteur on Prisons and Conditions of Detention in Africa.

Zimbabwe⁸⁹ or Mozambique⁹⁰, lack of nutritious food for imprisoned women has been reported. According to some reports, in Uganda, the government provides prisoners with clothing but does not extend this courtesy to their children, and some babies appeared to be getting the same food as their mothers.⁹¹ On the contrary, in Rwanda a very innovative scheme was introduced whereby cows are reared in prison and the milk from the cows is given to the mothers with their babies in prison.

Rule 49

Decisions to allow children to stay with their mothers in prison shall be based on the best interests of the children. Children in prison with their mothers shall never be treated as prisoners.

The African Commission on Human and People's Rights (ACHPR) reports⁹², and research has revealed, that children are imprisoned with their mothers in Benin, Ethiopia, South Africa, Mozambique, The Gambia, Sudan, Nigeria⁹³ and Uganda. While children may remain with their mothers until the age of 18 months in Ethiopia. A 2004 visit by the Special Rapporteur of the ACHPR on Prisons and Conditions of Detention in Africa noted that there were children as old as eight years in one Ethiopian women's prison—these children were not attending school.⁹⁴ The same was the case for children with their parents in prisons in Sudan.⁹⁵

V. RECOMMENDATIONS

Prisons are not only a reflection of the society within which they are located; their ability to effectively rehabilitate and care for inmates has a considerable impact on public health, social structures and societal crime rates. In democratic societies the law underpins and protects the fundamental values of society. To ensure the humane treatment of female prisoners in African countries, reform efforts have to commence from policies governing prisons and security agencies who have also been empowered to detain individuals. The operations of security agencies are strictly governed by existing rules and regulations, thus, there is a need for effective gender mainstreaming among African security agencies through gender-sensitive policies that recognise and address the special needs of female inmates and officers.

⁸⁷ACHPR (2001) Prisons in Malawi. Report on a visit 17-28 June 2001 Series IV, No. 9. Special Rapporteur on Prisons and Conditions of Detention in Africa.

⁸⁸ACHPR (2001) Prisons in Namibia. Report on a visit 17-28 September 2001. Special Rapporteur on Prisons and Conditions of Detention in Africa.

⁸⁹Vetten L., (2008) *The Imprisonment of Women in Africa*. In J Sarkin (Ed) *Human Rights In African Prisons*. South Africa: HSRC Press.

⁹⁰ACHPR (2001) Prisons in Mozambique. Report on the second visit April 4-14 Series IV, No. 8. Special Rapporteur on Prison and Conditions of Detention in Africa.

⁹¹Tibatemwa-Ekirikubinza L (1999) *Women's Violent Crime in Uganda*. Kampala: Fountain Publishers.

⁹²ACHPR (2000) Prisons in Benin Report on a visit 23-31 August 1999 Series IV, No. 6. Special Rapporteur on Prisons and Conditions of Detention in Africa; ACHPR (2004) Prisons in Ethiopia on a visit 15-29 March 2004. Special Rapporteur on Prisons and Conditions of Detention in Africa.

⁹³Osude U & Imoka U (2015), *Respecting the Rights of Children of Incarcerated Person in Nigeria*, Nigeria: PRAWA.

⁹⁴ACHPR (2004) Prisons in Ethiopia on a visit 15-29 March 2004. Special Rapporteur on Prisons and Conditions of Detention in Africa.

⁹⁵Vetten L., (2008) *The Imprisonment of Women in Africa*. In J Sarkin (Ed) *Human Rights In African Prisons*. South Africa: HSRC Press.

Legal reforms cannot be considered effective without adequate resources for the implementation of recommended standards. Resource inadequacy remains a major impediment in the quest for African penal reform. As shown in this paper, this inadequacy has further hindered the capacity of detention facilities to accommodate the needs of female prisoners. In many countries, the security sector remains one of the most funded sectors. However, since prisons are not considered among the traditional security institutions in African nations, they remain the least funded criminal justice sector organ. This paper maintains that there is a need for African countries to shed the past perception of prisons as instruments for retributive justice and embrace instead the understanding that penal institutions are rehabilitation facilities. This is a task that can be effectively implemented through collaboration between government and non-governmental organisations. Nevertheless, it falls on non-governmental organisations to drive this change by sensitising both policy makers and the public. A change in public perception will go a long way in influencing the government's disposition and commitment to combating the problem of resource inadequacy within penal institutions.

In November 2013 during its 21st Session, the African Committee of Experts adopted a General Comment to Article 30 of the African Charter on the Rights and Welfare of the Child which lays out a number of provisions ensuring 'special treatment' for pregnant women and mothers who are accused or convicted of criminal offences. The committee also mandated State's Parties to ensure that non-custodial sentences are always considered first for primary caregivers, pregnant women and mothers of young children for whom they must establish alternatives to detention. Although there is still little development within the continent in this area, these directives from the African Committee of Experts present a regional legal framework binding on states for the protection of children of incarcerated persons and their caregivers.

Given the poor state of prison health facilities there is a need for integration of the prison health care services into the national public health care system, while mental health care services are integrated into the primary health care system of African nations. This will ensure that prison inmates have access to services available within communities, in accordance with international human rights standards. Furthermore, the integration of mental health care into the primary healthcare system will tackle the issue of stigmatisation and criminalisation of mental health disabilities within African communities.

The management of prisons is primarily about the management of human beings, both staff and prisoners. There is a current consensus that safety and security in prisons depend on creating a positive climate which encourages the cooperation of prisoners.⁹⁶ This perception of security is called Dynamic Security and is believed to be especially suitable to the needs of female prisoners, due to the particularly harmful effects that high security measures can have on women to the detriment of their mental well-being and social reintegration prospects.⁹⁷

In addition to the above-mentioned physical security techniques, there is also need for the development and adoption of clear policies and guidelines against the perpetuation of violence against inmates and sexual misconduct by staff in prisons. All forms of violence, sexual intercourse with prisoners and sexual touching should be criminalised with obligations

⁹⁶UNODC (2008), Handbook for prison managers and policymakers on Women and Imprisonment, Criminal Justice Handbook Series. New York: United Nations.

⁹⁷ Ibid.

placed on prison officers to report instances of abuse or sexual misconduct perpetrated by other staff in addition to both internal and external monitoring and oversight mechanisms. Finally, African prison officers need to be trained and sensitised in gender issues.

VI. CONCLUSION

Regardless of their small numbers within the African penal system, the plight of female prisoners cannot continue to be an afterthought in an already over-burdened system. As the primary protection mechanism for its citizens, the state's inability to provide adequate rehabilitation services under humane conditions for female prisoners is a failure that must be addressed.

APPENDIX 1

PRISON DATA FOR FEMALE INMATES IN AFRICA⁹⁸



S/N	COUNTRY	AVAILABLE PRISON DATA AS AT 18/02/2015			PAST PRISON DATA			RATE OF POPULATION INCREASE
		INMATE POPULATION (TOTAL)	FEMALE INMATE POPULATION (TOTAL)	FEMALE INMATE POPULATION (%)	YEAR	FEMALE INMATE POPULATION (TOTAL)	FEMALE INMATE POPULATION (%)	
1	Algeria	60000	600	1.0	2000	626	1.8	-4.2%
2	Angola	21634	80	2.7	1999	97	2.0	-17.5%
3	Benin	7247	362	5.0	2000	140	3.6	158.6%
4	Botswana	4124	136	3.3	2001	289	4.6	-52.9%
5	Burkina Faso	5976	101	1.7	2001	25	1.0	304%
6	Burundi	7793	374	4.8	2002	216	2.5	73.1%
7	Cameroon	25337	506	2.0	N/A	N/A	N/A	-
8	Cape Verde	1434	57	4.0	N/A	N/A	N/A	-
9	Central African Republic	845	69	8.2	N/A	N/A	N/A	-
10	Chad	4831	135	2.8	N/A	N/A	N/A	-
11	Comoros	206	4	1.9	N/A	N/A	N/A	-
12	Congo (Brazzaville)	1500	43	2.9	N/A	N/A	N/A	-
13	Cote d'Ivoire	8900	258	2.9	N/A	N/A	N/A	-
14	Democratic Republic of Congo	22000	660	3.0	N/A	N/A	N/A	-
15	Djibouti	550	30	5.5	N/A	N/A	N/A	-
16	Egypt	62000	2294	3.7	2002	2213	4.3	3.7%
17	Equatorial Guinea	1000	56	5.6	N/A	N/A	N/A	-
18	Eritrea	N/A	N/A	N/A	N/A	N/A	N/A	-
19	Ethiopia	93044	2605	2.8	2001/ 02	2034	3.3	28.1%
20	Gabon	3500	N/A	N/A	N/A	N/A	N/A	-
21	Gambia	914	28	3.1	N/A	N/A	N/A	-
22	Ghana	14728	220	1.5	2000	143	1.5	53.8%
23	Guinea Bissau	92	4	4.3	N/A	N/A	N/A	-
24	Kenya	53163	2817	5.3	2001	1486	4.2	89.6%
25	Lesotho	2401	84	3.5	2000	139	4.5	-39.6%
26	Liberia	1827	58	3.2	2001	N/A	5.0	-

⁹⁸ Available at: <www.prisonstudies.org>.

27	Libya	6187	74	1.2	2004	387	3.3	-80%
28	Madagascar	18719	842	4.5	2003	650	3.4	29.5%
29	Malawi	12156	133	1.1	2001	91	1.3	46.2%
30	Mali	4963	149	3.0	N/A	N/A	N/A	-
31	Mauritania	1664	33	2.0	N/A	N/A	N/A	-
32	Mauritius	2233	140	6.3	2000	78	4.7	79.5%
33	Mayotte	163	2	1.1	N/A	N/A	N/A	-
34	Morocco	72816	1747	2.4	2002	1776	3.3	-1.6%
35	Mozambique	15663	610	3.9	1999	551	6.3	10.7%
36	Namibia	4314	116	2.7	2000	104	2.1	11.5%
37	Niger	7116	213	3.0	2006	183	3.2	16.4%
38	Nigeria	56785	1192	2.1	2000	709	1.9	68.1%
39	Republic of Guinea	2600	125	4.8	2002	61	2.0	104.9%
40	Reunion	1034	37	2.6	N/A	N/A	N/A	-
41	Rwanda	55618	3559	6.4	2002	2925	2.6	21.7%
42	Sao Tome and Principe	194	8	4.1	2002	3	2.3	166.7%
43	Senegal	8428	286	3.4	2000	183	3.7	56.3%
44	Seychelles	786	35	4.5	2002	4	2.7	775%
45	Sierra Leone	3792	136	3.6	2007	66	3.3	106.1%
46	Somalia	3450	N/A	N/A	N/A	N/A	N/A	-
47	South Africa	157824	3945	2.5	2000	3966	2.5	0.5%
48	South Sudan	7500	397	5.3	N/A	N/A	N/A	-
49	Sudan	19101	382	2.0	N/A	N/A	N/A	-
50	Swaziland	3616	94	2.6	2002	133	3.9	-29.3%
51	Tanzania	35301	1200	3.4	2005	1515	3.3	-20.8%
52	Togo	4287	137	3.2	N/A	N/A	N/A	-
53	Tunisia	2500	67	2.7	N/A	N/A	N/A	-
54	Uganda	41837	1757	4.2	2005	901	3.4	95%
55	Zambia	17038	170	1.0	2005	237	1.7	-28.3%
56	Zimbabwe	17484	314	1.8	2001	671	3.5	-53.2%