

ASSESSMENT AND TREATMENT OF FEMALE PRISONERS IN AFRICA

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I. INTRODUCTION

This paper presents a brief assessment and overview of the treatment of female prisoners in Africa as well as examines various past and ongoing interventions in some African countries which promote the implementation of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules)¹. The term ‘prisoners’ as used in this context refers to all females detained or incarcerated in prison irrespective of the reason(s) for their detention/incarceration. These include awaiting trials/remand prisoners, convicted/sentenced prisoners, debtors, lifers, prisoners on death row, prisoners detained as ‘civil lunatics’ or ‘criminal lunatics’, etc. It is important to note that there are some amongst this category that are not ‘offenders’ as they have not committed any offence example those classified in the prison records as ‘civil lunatics’ — these are mentally disabled persons that are detained not because of having committed a crime but because of their mental disability. Also, within those categorised as ‘offenders’ are awaiting trial persons. Legally speaking these cannot be described as ‘offenders’ as by law they are still ‘*deemed innocent*’ until they are proven guilty by a court of competent jurisdiction after the completion of their trial. Sadly, it is worth noting that a high percentage of female prisoners fall within this category of persons (i.e. the Awaiting Trial Persons ‘ATPs’ or Awaiting Trial Females ‘ATF’). The presumption of innocence is provided for by the African Charter on Human and Peoples’ Rights (hereafter referred to as the African Charter) as well as some national legislation of most (if not all) member states of the African Union.²

The Nigerian Prison Service recognizes five forms/legal reasons for detention/incarceration of female prisoners, namely³:

(i). Women against whom a court of competent jurisdiction has decided a case. These are usually brought into prison with ‘Conviction Warrants’.

(ii). 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.

(iii). Women committed as judgement debtors by the courts for whom the judgement creditor deposits feeding money with the prison authorities.

(iv). Women members of the armed forces who commit offences prohibited by the military and civilian accomplices committed to prison through court martial.

(v). 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).

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¹UN Resolution 65/229 adopted by the General Assembly [on the report of the Third Committee (A/65/457)].

²See Article 7(b) of the African Charter. The Charter was adopted at the 18th Ordinary Session of the Assembly of Heads of State and Government of the Organisation of Africa Unity (now African Union) on June 27, 1981 and came into force on October 21, 1986, OAU Doc/CAB/LEG/67/3/Rev.5 registered with the United Nations on September 10, 1991, No. 26363. Available Online at <<http://www.umn.edu/humanrights/africa>>. The African Charter has been domesticated in Nigeria as the African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act, Cap. 10, Laws of the Federation of Nigeria. See also section 36(5) of the 1999 Constitution of the Federal Republic of Nigeria for an example of such national legislation that provides for ‘holden charge’ practice.

³See 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.

Interestingly, section 19 of the Prison Act of Nigeria defines a woman prisoner as “any person lawfully committed to custody”. Analysing the implication of this provision it has been argued elsewhere that:

The implication of this (provision of the Nigeria Prison Act) is that for a woman to be recognised as a prisoner in Nigeria, her confinement to prison must be lawful. It means then that a woman committal to prison is illegal, (whether as a result of procedural or substantive defect in the committal process), cannot be lawfully described as a prisoner. This raises serious questions as to the legal status of awaiting trial women who are often charged by magistrates who have no jurisdiction to try them and are remanded in prison custody by such magistrates pending their proper trial before a competent court.⁴

This practice is commonly described as the ‘Holding Charge’ — a practice that has been widely criticised and condemned⁵. It is also inconsistent with the provision of section 35(1)(c) of the 1999 Constitution of the Federal Republic of Nigeria.

It is important to point out the fact that it is not the assumption in this paper that Africa is a homogeneous entity having a common legal framework and administration of criminal justice. The treatment of female ‘offenders’ is not the same in all African countries. There are some variations especially traceable to the colonial heritage of the respective African countries. For example, the practices in countries colonised by the United Kingdom are based on the common law system and are accusatorial in nature (for example Nigeria, Kenya, Zambia, Malawi, Zimbabwe, Namibia, Tanzania, Ghana, The Gambia, etc.). This differs from the practices in countries that were colonised by the French (for example Benin Republic, Senegal, Togo, Burkina Faso, Mali, Guinea, etc.) with legal systems that are more inquisitorial.

Furthermore, there are also other noticeable differences in the countries in respect of their prison conditions attributable to the varying levels of political stability in the respective countries. For example, the treatment conditions of female offenders/prisoners in countries in conflict/post conflict situations (for example Burundi, Democratic Republic of Congo, Central African Republic, South Sudan, etc.) differ significantly from those of countries with relatively stable political conditions (Zambia, South Africa, Namibia, Ghana, etc.). Note that the operative word here is ‘relative stability’ as we know that a country may be said to be politically stable but can the next day, month or year be faced with some conflict and political instability. Also, there are countries emerging from conflicts, but they have made some giant strides in improving their criminal justice processes that may be argued to outweigh that made by some countries that never experienced such conflicts. Rwanda is an example of such a country which through its Gacaca and community corrections initiatives and other positive reforms was able to significantly reduce its prison population from over 130,000 (after the genocide) to less than 65,000 inmates by 2012.

However, despite the point made above there are some similarities that can be said to be noticeable in many African countries though the magnitude of these may differ from country to country. In examining the treatment of female offenders in Africa attempt will be made where possible to indicate the applicable country under reference.

II. THE CONTEXT

It is widely known that female prisoners constitute a minority in the prison statistics across the

⁴Agomoh U and Akpepong O (2004) eds, *Women Prisoners and Mothers With Babies in Prison in Nigeria*, by Ndombana N, PRAWA: Lagos at page 19. See also, section 236(3) of the Criminal Procedure Law of Lagos State Nigeria for an example of such a law.

⁵See the decision of the Court of Appeal in *Bayo Johnson v Lufadeju and Attorney General of Lagos State* (2002) 8 NWLR (Pt 768) page 192. See also *Onagoruwa v The State* (1993) 7 NWLR (Pt 303) page 49 at 107.

⁶It has been estimated that female prisoners account for approximately 5 percent of the total prison population worldwide. See, Penal Reform International, “Vulnerable Prisoners: omen and Mothers”, *International Training Programme Good Prison Management Kit*, Available at <http://www.penalreform.org/download/resources_kits/kit1-B3>.

globe⁶. The situation in Africa is consistent with this fact. For instance, the statistics indicate that the percentage of female prisons out of the general prison population of African countries ranges from about 0.8 percent to 8.2 percent. The countries with relatively higher proportion of female prisoners are: Central African Republic (8.2 percent), Rwanda (6.4 percent), Mauritius (6.3 percent), Kenya (5.3 percent), Benin Republic (5 percent), Burundi (4.8 percent), Republic of Guinea (4.8 percent), Madagascar (4.4 percent), Guinea Bissau (4.3 percent), Cape Verde (4.2 percent), and Congo Brazzaville (4.1). The countries with relatively lower proportion of female prisoners are: Malawi (0.8 percent), Zambia (1 percent), Algeria (1 percent), Mayotte (1.1 percent), Libya (1.2 percent), Burkina Faso (1.3 percent), Comoros (1.5 percent), Ghana (1.6 percent), The Gambia (2 percent), Djibouti (2 percent), Mali (2 percent), Nigeria (2 percent), Tunisia (2 percent), Sudan (2 percent), and Uganda (2 percent). See the appendices section for more details. A closer look at these figures shows that many of the countries with relatively higher proportions of female prisoners are mainly countries that do not have the common law legal system. The only exception to this rule is Kenya. One may ask whether the above reflect a higher offending behaviour or a harsher treatment of female offenders in these countries. We do not have enough evidence to address these questions. However it is worth noting that the range of 0.8 percent to 8.2 percent still represents a minority within the prison population. An interesting assessment will be to also find out if this mirrors the statistics within the entire criminal justice system — police, court, probation, parole, community service and other non-custodial sanctions and not just the prison statistics.

Another observation from the analysis of the prison population statistics is that:

- There seems not to be any correlation between the number of the total prison population and the proportion of female prisoners
- Also, there is no correlation between the number/percentage of ATPs and the proportion of female prisoners.

For example, in relation to the total prison population figures countries such as Central African Republic which had the highest indicated female prison population has a total prison population of 845, Malawi with the lowest figure indicated female prison population has a total prison population of 12,236. South Africa, Ethiopia, Algeria, Egypt, Morocco, and Nigeria with 156,370, 112,361, 60,000, 60,000, 72,000, and 53,842 total prison populations respectively had between 1 to 3.7 percent of this population as female prisoners. The only exception is Kenya which had a total prison population of 52,000 and the proportion of female prisoners stood at 5.3 percent, which is relatively high. Though a note of caution needs to be made here with respect to the fact that these figures can only give a useful picture when they are calculated in relation to the general population of the country, the above portrayed trend is still worth noting. In relation to the percentage of ATPs there also seems not to be any correlation with the proportion of female prisoners in any given country. Countries with high proportion of ATPs did not necessarily have high proportion of female prisoners. For example, Libya (87.2 percent ATP population had 1.2 percent of its prison population as female prisoners), Democratic Republic of Congo (82 percent ATP population had 3 percent of its prison population as female prisoners), Congo Brazzaville (75 percent ATP population had 4.1 percent of its prison population as female prisoners), Benin Republic (74.9 percent ATP population had 5 percent of its prison population as female prisoners), Central African Republic (70.2 percent ATP population had 8.2 percent of its prison population as female prisoners), Nigeria (68.7 percent ATP population had 2 percent of its prison population as female prisoners), and Chad (63.4 percent ATP population had 2.8 percent of its prison population as female prisoners). The only exception to this is Central African Republic.

The issue of women being a minority within the criminal justice system of many African countries (just as in many other jurisdictions) poses serious consequences as most (if not all) prisons are 'male-streamed' — constructed to cater largely for the male prison population without adequately reflecting a gender-sensitive approach and thus unable to cater adequately for the special needs of female prisoners. On this point, it has been aptly stated elsewhere that:

There is one category of detainees which is seldom mentioned — women. They do not fit the typical image of a prisoner. They are not 'real prisoners'...⁷

Beyond the issue of the proportion of the female prisoners and the implication of these as described above, there are other factors that have been observed amongst female offenders. To explain this we will refer to the findings observed from a study of 57 prisons in Nigeria conducted by the Prisoners' Rehabilitation and Welfare Action (PRAWA). The following were the findings⁸:

(i). Age:

86.8 percent of the female prisoners were aged 18-50 years, 3 percent were under 18 years and 10.1 percent were above 50 years, thus, indicating the presence of some juveniles and the elderly in some of the prisons.

(ii). Marital Status/Number of Children:

40.3 percent of the female prisoners were married while 38.8 percent were single, 12.4 percent were divorced while 8.5 percent were widowed. 65 percent had children at home before their detention/imprisonment. It is important to note the high number of both the married and those that are not yet married as both of these factors have implications that constitute major concerns and stress to the female prisoners.

(iii). Pregnancy Status:

9.3 percent of the female prisoners interviewed were pregnant while 7.8 percent delivered their babies while in prison. There were pregnant female prisoners and female prisoners with babies in 27 out of the 57 prisons visited during the course of this study. This highlights the need to provide adequate facilities for pregnant female prisoners and those with their babies in prison including pre-natal, post-natal, and creche facilities, etc.

(iv). Educational Status:

32.6 percent of the female prisoners had no education, 35.7 percent had some primary (elementary) school education and 26.4 percent had some secondary school education while only 5.5 percent had or attempted a higher education programme. Thus, 94.5 percent could be described as fallen between the 'stark illiterate and semi-illiterate' group. This has implications for designing rehabilitation and reintegration of the female prisoner.

(v). History of Criminality:

91.5 percent of the female prisoners were first offenders. Some of the female prisoners reported that they were not the actual crime suspects in the cases but the sisters, or mothers, or wives, or daughters or girlfriends of the main male suspect. They explained that they were arrested by the police and detained with the hope that the actual suspect will give themselves up before these women will be released. Often the main (male) suspect absconds and the charge will not be indicated as 'hostage taking' but usually this will be reflected as 'conspiracy to commit whatever is the offence the male suspect was suspected to have committed'. This contravenes article 7(2) of the African Charter which states as follows: 'Punishment is personal and can be imposed only on the offender'.

As explained in the introduction section, there are also some women that are detained in prison as 'civil lunatics' — an official prison categorisation for persons with mental disability who have been detained under the order of the court as without necessarily committing any offence. This is like preventive detention. There was a case of one of these women who was detained as a 'civil lunatic' under the instigation of her husband because he wanted to 'put her out of circulation' to enable him marry a new wife as he was tired of her frequent mental health relapse.

With respect to the type of offences, these female prisoners were charged with the following crimes: Murder (34.1 percent), Stealing (12.4 percent), Assault (12.4 percent), Armed Robbery (4.7 percent), Manslaughter (0.8 percent), Traffic Offences (0.8 percent), and others (31 percent). From the above, one may be tempted to argue that the majority of the female prisoners are charged with violent offences not economic-related offences. This may be the case when the scope of the research covered many

⁷Jacques Moser, "Forgotten Prisoners: Women", as cited by Charlotte Lindsey, In: "Women and War: The Detention of Women in Wartimes", ICRC, June Vol. 83, No. 842 at page 506.

⁸Agomoh U and Akpekong O (2004) eds. Op. cit. at page 6.

prisons. However, in earlier research conducted by the presenter focusing only on the Female Prison Kirikiri Lagos⁹ it was observed that about 50 percent of the total female prisoners in this prison (which holds the majority of the female prisoners in Nigeria) were charged for drug-related offences.

(vi). Condition of Treatment:

These include the following:

(a). Access to Legal Representation —

Over 50 percent of the female prisoners were on remand and 60.5 percent of these had no legal representation.

(b). Visits —

88.4 percent of the female prisoners interviewed reported that they were visited either by their spouses, children, parents, relations, friends, religious groups, philanthropic organisation, counsel or fiances. 11.6 percent of these reported that the visits occur once yearly while most reported that they were visited either weekly or monthly. There were also those that never received any visits. These may be because they were either outrightly abandoned by friends and families or their relations did not know of their detention/incarceration.

(c). Access to basic materials:

10.4 percent did not have bathing/washing soap, 70.8 percent had no footwear, 61.3 percent had no uniform, 52.8 percent had no beddings and 74.6 had no sanitary pads. The method of acquisition of these materials varies, including the following: distribution by the prison authorities (85.4 percent), purchase by inmates (13.5 percent), and exchange for sex (2 percent). Some also explained that they acquired these materials through begging and gifts from relatives and other visitors. In relation to the clothing of the babies in prison, the respondents reported that these are acquired through purchase from outside the prison (36.8 percent), gifts (52.6 percent) and through distribution from the prison authorities (10.5 percent).

With respect to the issue of 'exchange for sex' this may be referring to homosexuality with fellow inmates. It was not probed further during the course of this particular research. However, in a different research of Six African Countries (Zambia, Kenya, Rwanda, Burundi, Nigeria and the Democratic Republic of Congo)¹⁰ conducted by PRAWA in 2009 — 2010 female prisoners in Burundi prisons openly informed the researchers during Focus Group Discussions that they require condoms because they use these for their protection while having sex and that they allow this to enable them have access to food and other necessary materials in prison.

(d). Feeding:

96.7 percent of the respondents reported that they feed three times daily. 32.8 percent complained about the quality of food they were given. No separate feeding arrangement is made for pregnant women and nursing mothers except the addition of the babies in prison to the total number of those to be fed in prison. It is important to note that the pregnant and nursing mothers in prison feed on the same menu and budget as every other prisoner. The feeding allocation of 150 naira (less than a dollar) a day per prisoner is grossly inadequate. More so, the food contractor will still make his/her margin of profit on this meagre allocation. The issue of increase of the amount of the prisoners daily feeding is being currently advocated.

(e). Medical Care:

74.4 percent reported that they receive medical attention in prison while 25.6 percent reported that they did not receive any such care. 92 percent reported that medical examination and drugs were made available to the prisoners. 45.5 percent reported that the female prisoners

⁹This is the only exclusively female prison in Nigeria. Others are mixed prisons with a wing/unit designated for females. See Agomoh U (2001). *Female Prisoners: A Case Study of Female Prison Kirikiri Lagos Nigeria*, Unpublished PhD Thesis, Department of Sociology, University of Ibadan, Nigeria.

¹⁰ See Prison Reform Interventions in Africa Baseline Report on Burundi, produced by PRAWA with the funding support of the Dutch Ministry of Foreign Affairs.

received ante-natal and post-natal care in prison while 54.5 percent reported that this was not provided. 78.9 percent reported that the babies with their mothers in prison enjoy medical attention in prison but 21.1 percent reported that this was not the case. This conflicting report suggests that there seem to be variations from prison to prison with respect to the provision of medical care for female prisoners and for babies with their mothers in prison (or at least with the perception of female prisoners of the availability of these services).

It is important to note that many of the female prisoners reported high levels of sleeplessness, depression and emotional stress. Thus, making this consistent with studies elsewhere, for example, the British Department of Health¹¹ estimated that 75 percent of female prisoners suffer from various neuroses including depression, anxiety and phobias while approximately 58 percent of the male prisoners were similarly affected.

(f). Hygiene:

The research indicated that about 29.8 percent of the respondent reported that they bathe once in three to seven days because of the unavailability of water while 55 percent reported that they bathe daily. The shortage of water is usually more prevalent amongst prisons located in rural or semi-rural areas.

The objectives of the above study were to¹²:

- Establish a common understanding of women prisoners and mothers with babies in prison in Nigeria.
- Discuss the special needs of women prisoners and mothers with babies in prison and set priorities with regards to treatment that takes into consideration these unique needs.
- Increase awareness and understanding of international, regional and national human rights instruments on the treatment of women prisoners and mothers with babies in prison.
- Analyse the field assessment findings on this vulnerable group of prisoners with a view to establishing a common understanding of their conditions of treatment.
- Formulate a national plan of action on the treatment of women prisoners and mothers with babies in prison, police and other detention centres.

Some of the recommendations made following this survey are replicated in this paper though with some modifications as follows:

(i). Adequate facilities that meet the specific physical and mental health needs of women prisoners should be provided in accordance with international human rights standards.

(ii). Well equipped vocational training workshops and educational programmes should be made available to the prisoners in line with set minimum standards ensuring sustainability and income generation for the inmates (towards their resettlement back into the community). Micro credit schemes may also be introduced to support this initiative or to fast track it.

(iii). Adequate recreational facilities should be provided for the physical fitness of the female prisoners.

(iv). Appropriate counselling should be provided for women prisoners to reassure them of their sense of self-worth. This should be routinely provided for all female prisoners on admission. This is the most vulnerable period as most female prisoners experience the greatest anxiety and stress at this stage.

(v). Special attention should be given to the reproductive health needs of the female prisoners. Due consideration should be given to the use of non-custodial sanctions and only use imprisonment in cases where this is absolutely necessary given the gravity of the offence or the likely violence or

¹¹ 1998 Report cited in Penal Reform International, op. cit.

¹² Agomoh U and Akpekong O (2004) (eds), op. cit. page 7.

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harm to the female prisoner or to the general community and where no other alternative sanction is applicable/available. Adequate support and counselling should also be provided for female prisoners who are experiencing menopause.

(vi). Adequate attention should be paid to other health needs of the female prisoners. For example, proper treatment should be given to cases of sexually transmitted diseases (including for those suffering from HIV/Aids) and screening for breast and cervical cancers.

(vii). Qualified mental health professionals should be deployed to all prisons to attend to the mental health needs of female prisoners while attempts must be made to divert all cases of 'civil lunatics' to proper therapeutic settings for their appropriate treatment and care.

(viii). The sanitary needs of all female prisoners should be regularly provided to cover their monthly requirement and this should be covered by the State. Necessary sanitary facilities including portable water and proper toilet system and drainage provided.

(ix). Steps should be taken to provide speedy and quality criminal justice delivery process to ensure the reduction in the long duration in pre-trial detention.

(x). Necessary steps should be taken to ensure that female prisoners are adequately protected from physical and sexual violence or abuse by criminal justice agents — police, prison, court officials, etc. They should equally be protected from all other forms of ill-treatment.

(xi). Adequate and clean clothing should be provided for female prisoners including for mothers with their babies in prison.

(xii). The authorities should take up the responsibility of providing nourishing food necessary for the proper development of the babies with their mothers in prison and provide adequate clothing for them.

(xiii). Well staffed nursery with adequate facilities should be established in female prisons/detention facilities for the proper care of the babies when they are not with their mothers.

(xiv). Every decision taken by the authorities in relation to the mother or baby should be taken in the best interest of the child¹³.

(xv). Alternative sentencing should be adopted (where possible) for mothers with young babies who are convicted of criminal offences.

(xvi). Female prisoners on admission or whenever suspected to be pregnant should be screened and where their pregnancy is confirmed, be given adequate pre-natal care and upon delivery post-natal care. They should be provided with nutritious diets and vitamin supplements to prevent birth defects or loss of pregnancy and they should be encouraged to take regular mild exercises and adequate ventilation. Where possible, the birth of the babies should be at hospitals/clinics outside the prison.

(xvii). Review of all relevant statutes/laws and administrative policies/processes to bring these in compliance with the Bangkok Rules and other relevant/applicable international and regional human rights standards.

(xviii). Full implementation of the rule on the inadmissibility of all statements obtained through torture and criminalisation of torture¹⁴ where this is not already the case.

¹³ This is consistent to the provision of the Child Rights Act 2002, Federal Republic of Nigeria. See also Art 37(c) of the Convention on the Rights of the Child, adopted by the UN General Assembly, Resolution 44/25 of 20 November, 1989.

¹⁴ This is provided by the UN Convention Against Cruel, Inhumane, and Degrading Treatment or Punishment (UNCAT).

(xix). Training of law enforcement and criminal justice agencies on human rights and good prison/correctional practices.

(xx). Establishment of adequate monitoring and oversight process to ensure compliance with international human rights standards in the treatment of female prisoners (and all other prisoners) including the establishment of National Preventive Mechanisms¹⁵.

(xxi). Provision of adequate funding, and facilitation of co-operation, building of synergies and support amongst government, private and voluntary agencies towards the implementation of the Bangkok Rules.

III. IMPLEMENTING THE BANGKOK RULES

In discussing this attempt will be made to draw on some examples of good of practice especially in relation to creative interventions applicable or adaptable in resource constrained environments which complies with implementation of the principles and standards contained in the Bangkok Rules.

On Admission:

Rule 2

1. Adequate attention shall be paid to the admission procedures for women and children, due to their particular vulnerability at this time. Newly arrived women prisoners shall be provided with facilities to contact their relatives; access to legal advice; information about prison rules and regulations, the prison regime and where to seek help when in need in a language that they understand; and, in the case of foreign nationals, access to consular representatives as well.
2. Prior to or on admission, women with caretaking responsibilities for children shall be permitted to make arrangements for those children, including the possibility of a reasonable suspension of detention, taking into account the best interests of the children.

In many of the 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 service 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 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.

¹⁵ In compliance with the provision of the Optional Protocol to the UN Convention Against Cruel, Inhumane, and Degrading Treatment and Punishment (OPCAT).

On Personal hygiene

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

Rule 5

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.

In some of the 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. The campaign is for the donation of 500 naira (approximately 3.2 USD) for the provision of 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 water bore hole at Auchi prison in Edo State of Nigeria is one of such interventions.

On Health-care services, Mental Health care and Substance Abuse Treatment Programmes (Rules 6 to 17)

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

For example:

Rule 6

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

- (a) 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;
- (b) Mental health-care needs, including post-traumatic stress disorder and risk of suicide and self-harm;
- (c) The reproductive health history of the woman prisoner, including current or recent pregnancies, childbirth and any related reproductive health issues;
- (d) The existence of drug dependency;
- (e) Sexual abuse and other forms of violence that may have been suffered prior to admission.

Some of the countries have introduced programmes to address this. 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.

An example of this is PRAWA's provision of trauma counselling and development of 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 workers¹⁶ on this as well as conducting periodic medical outreach to prison in partnership with the 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 linked drug abuse prevention and awareness programme targeting both inmates and prison officers. This intervention has proved to be very successful facilitating joint initiative between inmates and prison authority 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 have 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).

On Contact with the outside world (Rule 26 to 28)

[Supplements rules 37 to 39 of the Standard Minimum Rules for the Treatment of Prisoners]

For example:

Rule 26

Women prisoners' contact with their families, including their children, and their children's guardians and legal representatives shall be encouraged and facilitated by all reasonable means. Where possible, measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes.

Family visits are allowed in all the prisons in Africa. In fact, in some countries especially post conflict countries the family provides substantial support towards the upkeep of the inmates such as by bringing foodstuff. An example of this is the case in Burundi and the Democratic Republic of Congo. Some of the African countries have also started allowing prisoners to make phone calls to their families. For example, during the presenters visit to Senegal in June 2013 she observed dedicated telephones provided for prisoners to communicate with their families and lawyers in two of the prisons she visited. In some countries inmates or their families are expected to pay for the cost of these phone calls while in some of the countries inmates are prohibited from making phone calls. Evidence shows that in reality this prohibition is usually violated and that such restriction opens avenue for only the rich and powerful to benefit, thus making it a privilege and not a right. Also, this encourages abuse, corruption and inefficient monitoring of this process which further compounds the problem by undermining the security of the prison, putting it at risk.

¹⁶ This 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).

On Classification and individualization (Rules 40 to 41)

[*Supplements rules 67 to 69 of the Standard Minimum Rules for the Treatment of Prisoners*]

For example:

Rule 40

Prison administrators shall develop and implement classification methods addressing the gender-specific needs and circumstances of women prisoners to ensure appropriate and individualized planning and implementation towards those prisoners' early rehabilitation, treatment and reintegration into society.

PRAWA provided support to the Burundi Prison Service and the Prison Service of the Democratic Republic of Congo (DRC) under the Prison Reform Interventions in Africa¹⁷ project to develop a Draft Policy on Security and Classification of Prison and conducted training in Burundi and DRC respectively for prison officials and police/military officers working in prisons in the two countries on this subject.

On Social relations and aftercare (Rules 43 to 47)

[*Supplements rules 79 to 81 of the Standard Minimum Rules for the Treatment of Prisoners*]

For example:

Rule 43

Prison authorities shall encourage and, where possible, also facilitate visits to women prisoners as an important prerequisite to ensuring their mental well-being and social reintegration.

Rule 45

Prison authorities shall utilize options such as home leave, open prisons, halfway houses and community-based programmes and services to the maximum possible extent for women prisoners, to ease their transition from prison to liberty, to reduce stigma and to re-establish their contact with their families at the earliest possible stage.

Rule 46

Prison authorities, in cooperation with probation and/or social welfare services, local community groups and non-governmental organizations, shall design and implement comprehensive pre- and post-release reintegration programmes which take into account the gender-specific needs of women.

Rule 47

Additional support following release shall be provided to released women prisoners who need psychological, medical, legal and practical help to ensure their successful social reintegration, in cooperation with services in the community.

In Kenya, a very good programme was initiated at the Langata Women's Prison but this is now currently applied across the several prisons in the country. This is the Remote Parenting Programme. This programme was introduced by the Kenya Prison Service to offer the women prisoners opportunity to interact with their families, review the school work of their children and enhance the bonding between them and their family thus reducing the negative impact of incarceration on the family while enhancing the likelihood of full/successful reintegration upon release. Botswana and Ghana have an Open Day Programme which focuses on getting the media and the general public to visit the prison and

¹⁷ With funding support from the Dutch Ministry of Foreign Affairs.

appreciate the challenges and contributions being made by the prison service. In Nigeria there is one Open Prison¹⁸ and about fourteen Prison Farms which also serve like Open Prisons. The Open Prison does not have perimeter walls/fences and the inmates are only convicted prisoners, low risk and of good behaviour. The inmates are allowed to go to the town unaccompanied by prison guards and to carry out other activities aimed at enhancing their reintegration back into the community. With respect to the Prison Farms, these also do not have perimeter walls/fences and they are also low risk convicted inmates who have about six months or less to complete their sentence that are transferred to prison farms. While at the prison farms, the inmates are trained in mechanised farming. In relation to enhancing the partnership between prison and other stakeholders in facilitating effective rehabilitation of prisoners and reintegration of ex-prisoners PRAWA assisted both the Zambia Prison Service and the Kenyan Prison Service¹⁹ in developing the Draft Zambia Prison Rehabilitation Policy and the Draft Kenyan Prison Service Rehabilitation Policy, These draft policies aimed at strengthening the partnership between the prison service and the community corrections, health, social welfare, faith based organizations and non-governmental organizations (and in the case of Kenya), including the probation service to identify and agree on joint initiatives and collaboration on prisoners' rehabilitation and reintegration programmes.

On 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.

Rwanda introduced a very innovative scheme whereby cows are reared in prison and the milk from the cows is given to the mothers with their babies in prison.

On Non-custodial measures (Rules 57 — 62)

For example:

Rule 57

The provisions of the Tokyo Rules shall guide the development and implementation of appropriate responses to women offenders. Gender-specific options for diversionary measures and pretrial and sentencing alternatives shall be developed within Member States' legal systems, taking account of the history of victimization of many women offenders and their caretaking responsibilities.

Many African countries have introduced various community sanctions, for example Zimbabwe (Community Service), Uganda (Community Service), Kenya (Probation and Community Service), Zambia (Parole), Rwanda (*Tigi* / Community Service). The case of Rwanda is worthy of note as the introduction of *Tigi*, complementing the Gacaca legal process, helped significantly to reduce the prison population from about 130,000 post-genocide to about 65,000 and even less currently.

¹⁸ Kakuri Open Prison Kakuri, Kaduna Nigeria.

¹⁹ Through the Prison Reform Interventions in Africa Project funded by the Dutch Ministry of Foreign Affairs.

On Research, planning and evaluation (Rules 67 to 69)

For example:

Rule 67

Efforts shall be made to organize and promote comprehensive, result-oriented research on the offences committed by women, the reasons that trigger women's confrontation with the criminal justice system, the impact of secondary criminalization and imprisonment on women, the characteristics of women offenders, as well as programmes designed to reduce reoffending by women, as a basis for effective planning, programme development and policy formulation to respond to the social reintegration needs of women offenders.

In some of the African countries, the prisons and correctional services have established research, statistics and planning units within their respective agencies, for example such a department exists in the Nigeria Prison Service. This unit often interfaces with other departments of the service including the operations department to collect, collate and analyse prison data and related information and utilise these for planning purposes.

PRAWA under the Torture Documentation and Redress Scheme (TDRS)²⁰ sensitised the prison staff on the need to introduce a detailed documentation process for the Nigeria Prison Service to enable proper documentation of all inmates on admission including records of any observed physical injuries, photographs of these injuries, name and signature of the police officer that brought the suspect/accused person to prison and his/her certification that he/she brought the suspect in that state, etc.

Also under the Prison Reform Intervention in Africa project, PRAWA trained over 40 in-country researchers on administration of Self Report Questionnaires to prisoners, ex-prisoners and other stakeholders. These researchers were drawn from amongst prison staff, NGOs, etc. The aim of this is to build internal research capacity for the targeted prison/correctional services — Kenya, Nigeria, Rwanda, Burundi, Zambia, and the Democratic Republic of Congo.

More recently, PRAWA commenced the introduction of a computer-based case management system to serve as a central database for the collation of prison statistics and production of performance data which may be used for internal planning by the prison service as well as for engaging and advocating action with other criminal justice agencies in Nigeria. This initiative is currently running as a pilot in two States — Enugu State and the Federal Capital Territory (FCT). Similar initiatives are also being provided by PRAWA with the support of Justice for All Programme/DFID for the Ministry of Justice, Judiciary and Police in Enugu State as well as the FCT High Court and for the Pro Bono Clearing House on Legal Representation for Awaiting Trial Prisoners. The later is in partnership with the Legal Aid Council of Nigeria, Nigeria Bar Association and the Nigeria Prison Service²¹.

On raising public awareness, sharing information and training

Rule 70

1. The media and the public shall be informed about the reasons that lead to women's entrapment in the criminal justice system and the most effective ways to respond to it, in order to enable women's social reintegration, taking into account the best interests of their children.
2. Publication and dissemination of research and good practice examples shall form comprehensive elements of policies that aim to improve the outcomes and the fairness to women and their children of criminal justice responses to women offenders.
3. The media, the public and those with professional responsibility in matters concerning women prisoners and offenders shall be provided regularly with factual information about the

²⁰ This initiative was funded by the British High Commission from 2008 to 2011 in Nigeria.

²¹ See Justice for All Nigeria (2014), *How to Guide on How to Provide Better Quality Legal Representation for Awaiting Trial Prisoners: Create a Clearing House*, published by Justice for All Nigeria: Abuja <www.j4a-nigeria.org>.

matters covered in these rules and about their implementation.

4. Training programmes on the present rules and the results of research shall be developed and implemented for relevant criminal justice officials to raise their awareness and sensitize them to their provisions contained therein.

The lessons learnt and impact observed from the Penal Reforms Media Network (PERMNET) implemented by PRAWA in Nigeria from 1998/1999 with funding from PRI/EU shows that this is a very useful intervention that can help propel reform and support of policy makers on prison reforms. Politicians usually want to do things that earn them more public support and votes. Prison issue is rarely one issue that falls within this. By increasing the quality and frequency of media reporting on prison and penal reform issues this project attracted the interest and support of policy makers/politicians positively that led to provision of increased funding and support to the Nigeria Prison Service between 1998/2000 and beyond. The project involved the establishment of a network of 52 journalists from 51 media institutions, the training of these journalists on prison rules and prison/penal reforms and related human rights issues including facilitating on-the spot visits to prisons by the journalists, production of monthly fact sheets and media publication focusing on specific/pre-determined prison related topics, and provision of incentives for best media coverage of the issues of focus.

Also, PRAWA replicated some aspects of this initiative under the Prison Reforms Interventions in Africa funded by the Dutch Ministry of Foreign Affairs²² in the following countries:

- Zambia: Training of the staff of the Public Relations Unit of the Zambia Prison Service, training of journalists and organisation of on-the-spot visit of Lusaka Central Prison and Women's Prison by the journalists, and establishment of a network of journalists in support of prison reform under the coordination of the Zambia Prison Service.
- Rwanda: Training of journalists on prison reform issues and designated staff of the Rwanda Correctional Service (RCS) on development of a prison media factsheet and coordination of the Media Network for the RCS.
- Kenya: Training of the staff of the Public Relations Unit of Kenya Prisons Service on Media Network coordination and development of media factsheets as well as development of a draft Kenya Prison Service Public Relation and Media Engagement Policy.

IV. CONCLUSION

Experience has shown that signing and ratifying of international conventions does not necessarily translate to compliance with the provisions of such instruments. What seems to work well is engaging the recipient countries and their relevant agencies in capacity building, experience sharing, mentorship and support to facilitate their understanding of the rationale for the rules, belief on the importance of complying with these and their role in facilitating compliance, identify aspects of their practices and processes that violate or comply with these rules and creatively identify ways of ensuring compliance through sustainable, effective and low cost processes/activities. There is need to understand existing good practices, why and how they work and celebrate these through knowledge and experience sharing and support including exchanges, peer review and support. Developing and disseminating a compendium of these gains will help fast track compliance with the Bangkok Rules and other relevant international instruments across African countries. Monitoring and oversight are also very important in facilitating compliance with these rules.

²² Implemented from August 2009 to November 2013.

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APPENDIX 1

COUNTRY	TOTAL INMATE POPULATION	AWAITING TRIAL PERSONS (%)	MALE (%)	FEMALE (%)	FOREIGN PRISONERS (%)	RATE OF OVER-CROWDING (%)
ALGERIA	60,000	10.00	87.60	1.00	1.70	52.20
ANGOLA	21,634	47.7	Not Available	2.7	Not Available	66.8
BENIN	7,247	74.9	Not Available	5	Not Available	263.6
BOTSWANA	4,241	24.9	67.5	3.3	22.6	- 2.2
BURKINA FASO	5,035	34.8	Not Available	1.3	Not Available	43.9
BURUNDI	7,793	51.8	39.1	4.8	1.4	92.4
CAMEROON	24,000	62	29.7	2.1	2.4	41.2
CAPE VERDE	1,348	29.6	Not Available	4.2	Not Available	12.9
CENTRAL AFRICAN REPUBLIC	845	70.2	Not Available	8.2	Not Available	- 710
CHAD	4,831	63.4	29.2	2.8	1.3	132.3
COMOROS	120	50	Not Available	1.5	Not Available	Not Available
CONGO BRAZZAVILLE	1,300	75	Not Available	4.1	Not Available	Not Available
IVORY COAST	7,086	35	29.9	2.5	30	118
DEMOCRATIC REPUBLIC OF CONGO	22,000	82	Not Available	3	Not Available	Not Available
DJIBOUTI	750	50	Not Available	2	Not Available	50
EGYPT	60,000	9.9	Not Available	3.7	1	Not Available
EQUATORIAL GUINEA	650	Not Available	Not Available	Not Available	Not Available	Not Available
ERITREA	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available
ETHIOPIA	112,361	14	Not Available	3.5	Not Available	Not Available
GABON	2,750	33	Not Available	Not Available	Not Available	Not Available
GAMBIA	1,000	27	Not Available	2	66.7	65
GHANA	14,416	21.4	71.4	1.6	4.5	71
GUINEA BISSAU	92	Not Available	Not Available	4.3	Not Available	2.2
KENYA	52,000	36	57.5	5.3	0.7	108
LESOTHO	2,564	16.7	76.7	3.2	0.9	- 12.7
LIBERIA	1,930	78	14.1	3.2	2	37.5
LIBYA	5,090	87.2	Not Available	1.2	12.8	41.6
MADAGASCAR	18,507	54.8	38.4	4.4	0.1	79.3
MALAWI	12,236	15.9	78.3	0.8	1	122.5
MALI	5,817	43.4	Not Available	2	Not Available	123.3

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MAURITANIA	1,602	36.5	Not Available	2.1	Not Available	1.9
MAURITIUS	2,663	39.5	46.8	6.3	4.9	20.88
MAYOTTE	167	Not Available	Not Available	1.1	Not Available	59
MORROCCO	72,000	46.2	48	2.4	1.8	57.8
MOZAMBIQUE	15,735	35.1	61	2.2	0.9	101.6
NAMIBIA	4,314	7.9	78.4	2.76	5.5	-3.6
NIGER	6,899	51.9	Not Available	3	Not Available	-39.6
NIGERIA	53,841	68.7	Not Available	2	Not Available	13.9
REPUBLIC OF GUINEA	2,600	67.2	17.6	4.8	3.5	74.8
REUNION	1,127	Not Available	Not Available	2.6	Not Available	-10.4
RWANDA	55,618	7.1	85.8	6.4	0.3	1.7
SAO TOME & PRINCIPE	217	23.5	64.3	3.2	0.8	-16.5
SENEGAL	8,428	41.4	42.4	3.4	10.7	-2.8
SEYCHELLES	628	24.3	50.2	4.5	400	
SIERRA LEONE	3,281	58.3	36.6	3	2.1	91.9
SOMALIA	3,450	Not Available	Not Available	Not Available	Not Available	Not Available
SOUTH AFRICA	156,370	28.1	64	2.3	5.3	27.7
SOUTH SUDAN	7,000	45	Not Available	Not Available	Not Available	Not Available
SUDAN	20,000	12.1	82.9	2	1	155.3
SWAZILAND	3,411	18.1	72.3	2.6	6	-7.4
TANZANIA	35,301	52.7	36.7	3	3.7	24.3
TOGO	4,060	65	Not Available	2.6	Not Available	Not Available
TUNISIA	25,000	52	Not Available	2	Not Available	38.9
UGANDA	34,940	52	Not Available	2	Not Available	38.9
ZAMBIA	17,021	23.2	71.2	1	2.1	107.3
ZIMBABWE	18,460	27.6	Not Available	3.5	Not Available	0.6