

## **Dhaka Declaration on Reducing Overcrowding in Prisons in South Asia**

### **Conference on Penal Reform in Developing Countries: ‘Locked up and Forgotten?’**

**Dhaka, Bangladesh - October 6-7, 2010**

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107 delegates from five South Asian Countries (SAARC) met on 6<sup>th</sup> -7th October, 2010 in Dhaka, Bangladesh to discuss overcrowding in prisons in the region, prison legislation and legal aid services in the criminal justice systems in South Asia. The conference was opened by both the Minister of Home Affairs and Minister of Law, Justice and Parliamentary Affairs. The participants included judges, lawyers, senior prison management and academics, along with international, regional, and national non-governmental organizations who attended the conference. The two days of deliberations produced the Dhaka Declaration on Reducing Overcrowding in Prisons in South Asia (set forth below) which was adopted by consensus at the closure of the conference, with the request that it be forwarded to national governments in the region and to the United Nations Commission on Crime Prevention and Criminal Justice.

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#### **Preamble**

*Recognising* that prisons are increasingly overcrowded in many of our countries and that the conditions for those living and working in prisons are poor;

*Recognising further* that alternative sanctions to prison are limited in practice; and that many women and men await their trials in prison because they are too poor to access legal advice or meet the terms set by the court for bail; moreover, that a significant contributor to overcrowding in the region is often excessive and arbitrary use of pre-trial detention;

*Mindful* that those in prison include the mentally ill and chemically addicted in need of specialist treatment; the weak and vulnerable, including persons with different abilities, children (girls or boys), women with particular needs and characteristics; as well as the poor and marginalized in need of appropriate legal assistance;

*Noting* that prison should be a remedy of last resort reserved for those who are a present threat to society and that the use of imprisonment has drastic consequences for the families of those detained and their communities;

*Bearing in mind* that prison conditions and management systems should respect the dignity of the person and that the essential aim of prison is to rehabilitate offenders back into society in line with the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or

Punishment and other international human rights instruments ratified by SAARC countries;

*Recalling* the minimum standards laid down in the United Nations Standard Minimum Rules for the Treatment of Prisoners; and the emphasis on restorative justice approaches in appropriate cases set out in the United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules);

*Having regard to* the regional efforts for the promotion of basic rights of prisoners, as considered by the Pan-African Conference on Penal and Prison Reform in Africa, held in Ouagadougou from 18-20 September 2002, and the Latin American Conference on Penal Reform and Alternatives to Imprisonment, held in San Jose from 6-8 November 2002, and pursued by the African Union and the Organisation of American States, as well as the Asian Conference on Prison Reform and Alternatives to Imprisonment, held in Dhaka from 12-14 December 2002;

*Commending* the practical measures that have been taken by concerned authorities in South Asian countries, including judiciaries and prison authorities, to apply these standards in their national jurisdictions;

*Recognising* that notwithstanding these measures there are still considerable shortcomings in the treatment of prisoners, which are aggravated by shortages of facilities and resources;

*Welcoming* the growing partnerships between Governments, international development community, non governmental organizations, universities and civil society in the process of implementing these standards;

*Emphasising* the importance of a criminal justice policy that seeks to prevent crime while at the same time limiting the growth of the prison population and encouraging the use of alternatives to imprisonment such as community-based sanctions and measures, where appropriate, implemented through a prolonged and concerted strategy of penal reform.

*We, the participants at the Conference on Penal Reform in Developing Countries, held in Dhaka, Bangladesh, between 6-7 October 2010, hereby affirm that the following elements should be included in any penal reform strategy to reduce prison overcrowding:*

1. As imprisonment is a sanction or measure of last resort, it shall only be used when the seriousness of the offence would make any other sanction or measure clearly inadequate.
2. As pre-trial detention is a measure of last resort, it shall be used only in accordance with international standards and norms which dictate that the application of pre-trial detention occurs in a transparent and rational manner.

3. Increasing prison capacity shall not be adopted as a long term solution to the problem of prison overcrowding.

4. The following specific steps shall be taken to reduce overcrowding:

(a) Minor offences, where appropriate, shall be diverted away from the criminal justice system to alternative modes of resolution applicable in all our societies.

(b) Pre-trial/under-trial detention shall be used less frequently and for shorter periods. Alternatives to pre-trial detention shall be made available in law and sufficiently funded and practised. Custody time limits shall be set down and enforced by the court.

(c) Non-custodial measures shall be used wherever possible.

(d) Where a sentence of imprisonment is unavoidable, regard shall be had to the period of time an accused person may already have spent in pre-trial detention; and the sentence passed shall be for the shortest possible time period.

(e) Early release, whether conditional or unconditional, shall be allowed wherever it is justifiable to do so, including parole.

(f) Chemically addicted, mentally disordered and other seriously ill offenders shall be treated.

(g) Special arrangements shall be made to keep young offenders out of adult prisons as well as other closed institutions.

(h) Under no circumstances shall anyone be held in prison on the pretext of 'protective' or 'safe' custody.

5. The following measures shall be introduced to assist in taking the specific steps to reduce overcrowding:

(a) The operation of the criminal justice agencies shall be co-ordinated so that they work together in combating overcrowding.

(b) Legal services (including law students and paralegals) shall be made available in all prisons and at all stages of the criminal justice system.

(c) Constructive alternatives to custodial sanctions and measures shall be developed and applied at the pre-trial, trial and post-trial stages as an effective alternative to custody and preventing crime.

(d) The public shall be informed of the steps taken to reduce prison overcrowding and the reasons for doing so.

(e) Prison administrators shall develop effective means to measure and track the number of people and the length of time they have been incarcerated both pre- and post-trial.

(f) Foreign nationals held in prison for immigration reasons or after any sentence has expired shall be repatriated to their home countries.

6. Where conditions of overcrowding persist in prison, special care shall be taken to ensure that all prisoners are still treated with human dignity and constant monitoring shall be undertaken by a national prison inspection mechanism.

7. We request that this Declaration be forwarded to the SAARC governments for their attention and urge each country to develop a Plan of Action in line with good practices developed in the region and from elsewhere to reduce prison overcrowding. We further request that this Declaration be sent to the UN Commission on Crime Prevention and Criminal Justice.

Dhaka

7 October, 2010