



UN Human Rights Council

20th Session, 18 June - 6 July 2012

Item 3: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Statement of Penal Reform International and Friends World Committee for Consultation (Quakers)

Interactive Dialogue with the UN Special Rapporteur on the independence of judges and lawyers

Mme/ Mr President,
Distinguished Special Rapporteur,

Penal Reform International and the Friends World Committee for Consultation (Quakers) would like to congratulate the UN Special Rapporteur on the independence of judges and lawyers on her comprehensive report and the global thematic study on training of judges, prosecutors, public defenders and lawyers.

We highly welcome the focus attributed to the role of prosecutors in the criminal justice system, their relationship with other actors and the elements impacting on their independence and impartiality. We would like to add to the report on three aspects, and hope that future training of judges, prosecutors, public defenders and lawyers will include the following:

Firstly, we would like to emphasise that **alternatives to prosecution and detention**, such as diversion, need to be considered not only for juvenile offenders.

While instituting and conducting prosecution constitutes a major task of the prosecution, our organisations would like to stress that, first and foremost, the objective of this task is to ensure accountability of a perpetrator for violations of other people's rights and to increase the safety of society.

Yet, in a popular trend of "going tough on crimes" imprisonment appears to have become the primary and default reaction to offending, rather than the last resort in a set of sanctions tailored to ensure the rights of victims and to achieve accountability.

As a consequence, today more than 10.2 million people are incarcerated globally, pending trial or following conviction, and the number of persons deprived of their liberty in the context of criminal law is increasing on every continent. Imprisonment will also have a strong and usually negative impact on the lives of the children of those incarcerated,

including their emotional, material and financial well-being, physical and mental health and their relationships with the incarcerated parent, day-to-day carers and others. In many countries, people are remanded in custody for minor non-violent offences, contributing not only to disproportionate deprivation of liberty, but also to overcrowding of prisons and problematic prison conditions linked thereto.

We would, secondly, like to stress the role of the prosecution in many countries in **filing for pre-trial detention of suspects** - in what criminal justice experts diagnose to be an overuse of imprisonment on remand.

A large percentage of the prison population globally is awaiting trial, suggesting that pre-trial detention has become a standard reaction in the event of a suspicion of an offence rather than the last resort. An estimated three million people are held in pre-trial detention on any given day and many will spend months and even years in detention - without being tried or found guilty.

Besides the interference with the right to liberty at a point in time where criminal investigations are only pending and suspects have to be presumed innocent, detention is linked to a wide variety of human rights issues: torture and ill-treatment; corruption; infringements of the right to fair trial and lack of legal aid; discrimination of marginalised and vulnerable groups. Furthermore, the socioeconomic impact of pre-trial is considerable, including the impact on children of those detained: in many cases children's contact with incarcerated parents can be more restricted during pre-trial detention than following sentencing, despite the parent not having been convicted of any crime.

We would therefore like to highlight the need for prosecutors, in criminal justice systems where they have a role in filing for pre-trial detention, to apply due diligence, to consider prison on remand the last resort rather than a default reaction and to consider the best interests of the child as a primary factor in their decision-making.

Thirdly, we would like to flag the fact that the specific needs and characteristics of female offenders have to date been largely overlooked and the necessity of a **gender-sensitive criminal justice system** disputed too often.

We would like to highlight that in order to contribute to a gender-sensitive criminal justice system, the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ("Bangkok Rules") have been adopted by the General Assembly in December 2010.

However, awareness about these standards and progress in their implementation is still lacking.

We therefore strongly recommend the typical background of women offenders and the provisions of the Bangkok Rules to be included in the training curriculum of criminal justice actors, including prosecutors, to ensure that the provisions of the Bangkok Rules are understood and implemented at all stages of the criminal justice system.

Thank you for your attention.

Penal Reform International (PRI)
Friends World Committee for Consultation (Quakers)

Geneva, 25 June 2012