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To: Health professionals
From: Medical office / Africa Program
Date: 7 June 2001

MEDICAL LETTER WRITING ACTION

Harsh prison conditions Kenya

Key words harsh prison conditions / torture/ill-treatment / death in custody

Summary

Many prisoners in Kenya die each year as a result of torture, ill treatment and cruel, inhuman and degrading conditions of detention. Official figures for deaths in prisons are scarce, but in 1997 at least 630 prisoners reportedly died, the majority from infectious diseases. Information about the conditions in Kenyan prisons is limited because access to prisons by independent groups is denied or seriously restricted. Human rights non-governmental organizations (NGOs), prisoners, doctors and members of the judiciary have all spoken out and called for an end to torture and improvements in prison conditions. Amnesty International is calling on the Kenyan government to honour its national and international obligations to end all torture in Kenyan prisons and to improve conditions.

Recommended actions

Please write letters in English or your own language:

acknowledging the very real budgetary limitations on resources in Kenya, but also noting the failure of the Kenyan authorities to acknowledge and put an end to the continuing torture and harsh conditions in prison;
urging the government to ensure that domestic law and practice conform fully with international human rights treaties ratified by Kenya as well as international human rights standards, in particular, the *UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* and the *UN Standard Minimum Rules for the Treatment of Prisoners*;
calling on the authorities to take immediate steps to address overcrowding in prisons and to ensure that sanitary facilities, ventilation and exercise in the open air are improved with a view to reducing the risk of infectious diseases;
urging the authorities to equip all prisons with adequate medical services including sufficient medical practitioners for prisons; to ensure that prisoners have access to adequate medication; to transfer sick prisoners to hospital when necessary without undue delay and ensure that they are allowed to stay in hospital until discharged by doctors;
urging authorities to ensure that doctors visiting their patients in prison are given swift access in an environment that allows for patient-doctor confidentiality, and without the need for a court order;
urging the authorities to allow access for civil society to all detention centres and prisons. In particular, impediments against access by lawyers, doctors and family members should be removed. National and international human rights and medical groups should be allowed to visit and inspect prisons. Inspectors should have unrestricted access to all relevant records

and be authorized to receive and deal with detainees' complaints. The inspection body should prepare detailed reports of each visit, particularly about overcrowding and the health of the detainees, and should ensure that appropriate action is taken to remedy all shortcomings relating to the treatment of detainees and prisoners. The inspection body should make recommendations for improving conditions of detention in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners. These should be acted upon within a reasonable period.

If you receive no reply from the government or other recipients within two months of dispatch of your letter, please send a follow up letter seeking a response. Please check with the medical team if you are sending appeals after 10 August 2001, and send copies of any replies you do receive to the International Secretariat (att: medical team).

Addresses

President Daniel arap Moi
PO Box 30510
Nairobi, Kenya
Fax:+254 2 210 150

Mr Noah Katana Ngala
Minister of Home Affairs
PO Box 30520
Nairobi, Kenya
Fax:+254 22 18 811

Hon. Prof Sam Onger
Minister for Public Health
Afya House, 6th Floor
Cathedral Road
PO Box 30016
Nairobi

Mr Amos Wako
Attorney General
PO Box 40112
Nairobi, Kenya
Fax:+254 2 211 082.

Mr Abraham Mariach Kimakil
Commissioner of Prisons
PO Box 30175
Nairobi, Kenya

Copies

Mr Wangethi Mwangi
The Editor
The Daily Nation
PO Box 49010
Nairobi, Kenya
Fax:+254 213 946

Mr Wachira Waruru
The Editor
The Standard
PO Box 30080
Nairobi, Kenya

Fax:+254 2 337 697

and to diplomatic representatives of Kenya accredited to your country.

Date: 7 June 2001

MEDICAL CONCERN

**Harsh prison conditions
Kenya**

Introduction

Many prisoners in Kenya die each year as a result of torture, ill treatment and cruel, inhuman and degrading conditions of detention. Official figures for deaths in prisons are scarce, but in 1997 at least 630 prisoners reportedly died, the majority from infectious diseases. Information about the conditions in Kenyan prisons is limited because access to prisons by independent groups is denied or seriously restricted. Human rights non-governmental organizations (NGOs), prisoners, doctors and members of the judiciary have all spoken out and called for an end to torture and improvements in prison conditions. Amnesty International is calling on the Kenyan government to honour its national and international obligations to end all torture in Kenyan prisons and to improve conditions.

Deaths in prisons

Some Kenyan prisoners have been killed while attempting to escape or have died as a result of torture by prison officers. At least 10 prisoners died in prisons as a result of torture last year. Torture and ill-treatment appear to be used indiscriminately in Kenyan prisons to instil discipline. Prisoners are reportedly beaten if they do not obey the orders of prison officers or breach prison rules.

Impunity is a major concern in Kenya. The few investigations into allegations of torture, deaths in prisons or possible extrajudicial executions by the security forces appear to be summary and the evidence available from many investigations not sufficient to result in a prosecution. In cases where inquests have been ordered to establish the cause of death these have been delayed over several years.

In September 2000, six prisoners held on death row - Peter Loyara Lomukunyi, Peter Kolini, John Nyoro Njuguna, Julius Mungania, Peter Ngurushanaon and James Irungu Ndugo - died at King'ong'o prison, Central Province, during an escape attempt. The police and the Commissioner of Prisons, (who is in charge of the prison service under the Minister of Home Affairs), both began investigations into these deaths. The initial police report stated that they had been shot by prison officers to prevent their escape. However, prison officers alleged that the prisoners had died as a result of falling from the eight-metre high perimeter fence. A post mortem report stated that none of the bodies had bullet wounds and gave the cause of death as falling from a height. The bodies were then buried, but human rights groups and others alleged that the prisoners had been beaten to death and that the authorities were attempting a cover-up. The Attorney General ordered an inquest; the bodies were exhumed and a second post mortem was carried out for the families with the assistance of medical and human rights organizations, attended by a forensic pathologist representing Amnesty International. Medical evidence obtained indicated that the bodies had been subject to repeated blunt trauma, causing injuries that were not consistent with a fall. A report by the then Commissioner of Prisons, Edward Lepokoiyot, had not been made public at the time of writing, and no prison officers had been suspended from duty pending investigations.

Prison Conditions

Prison conditions in many prisons in Kenya amount to cruel, inhuman and degrading treatment. Hundreds of prisoners die each year, some as a result of torture by prison officers, the majority from infectious diseases resulting from severe overcrowding, insanitary conditions, shortages of food, clean water, clothing, blankets and adequate medical care. In September 2000 the Nyeri District Commissioner, Ali Korane, stated: "Our prisons are in very poor conditions. In all the provinces I have served as an administrator, all the facilities are pathetic. These harsh conditions end up hardening criminals rather than rehabilitating them" (*East Africa Standard*, 20 September 2000). In these conditions, infectious diseases such as typhoid, tuberculosis and HIV/AIDS spread easily. Prison Reform International reported in June 2000 that 90 prisoners die each month in Kenya (*Daily Nation*, 7 June 2000)

Overcrowding

Kenyan prisons hold as many as three times the number of inmates they were designed for. There are 78 jails in Kenya which were designed to accommodate 15,000 inmates. The Commissioner of Prisons claims that they now house 35,000 while other reports suggest that the actual number is nearer 50,000. Much of the overcrowding is due to the large number of people held on remand, many of whom are unable to raise the money needed to obtain bail, and who often wait up to three years for their case to come to court. Some prisoners on capital charges who do not qualify for bail have reportedly been held for over five years, awaiting trial. The length of time taken to process appeals, particularly for death penalty cases which can be up to seven years, also contributes to overcrowding.

Shortages of food, clean water and clothing

There are frequent reports of shortages of food, clean water and adequate clothing. The food in Kenyan prisons is extremely poor. The portions are small, of poor nutritional value and often badly cooked. Water shortages are regularly reported. In February and September 2000 the Nyeri Water and Sewerage Company disconnected the water to King'ong'o Prison, Central Province because the government had failed to pay the water bill. As a consequence toilets could not be flushed and nothing could be cleaned.

According to reports, inmates are only provided with one set of uniforms and no extra underwear. The uniforms are generally in a very bad condition and often unsuitable for the climate. In Marsabit Prison, Eastern Province, no jumpers are issued and there are reports that deaths due to pneumonia are common. Judges visiting Kamiti Maximum Security Prison, Nairobi, in February 2000 were shocked to find prisoners almost naked.

Medical care

Prisoners have limited access to medical care and medication. Most prison medical units have few or no resources and prisoners or their families are reportedly often asked to pay for any medical treatment. When medication is given it is often inadequate; for example, analgesics may be provided for injuries requiring surgery or other more intensive treatment. Very few prisons have a doctor and most instead rely on the District Medical Officer, who visits occasionally, and untrained medical orderlies. Private doctors who attempt to treat prisoners frequently report difficulties in gaining access to their patients. The law allows registered medical practitioners to visit their patients. However, the Officer in Charge of the Prison usually insists on a court order to allow the doctor to examine the patient, which can take up to a week to obtain, and even then the doctor may be refused access unless the prison doctor is available which, given there are very few prison doctors, compounds delays.

Access to hospital treatment is restricted by prison officers who reportedly either refuse to take very sick inmates to hospital or do so, so late, that the inmates are often extremely ill or dying by the time they arrive. The persistent coughing of a defendant during a hearing in the Mombasa High Court in December 2000 caused a judge to raise concerns about the health of prisoners in Shimo la Tewa prison. The prisoner had been refused hospital treatment by prison officers on security grounds. Once in hospital, the prisoners are chained to the bed. Hospital doctors note that prisoners usually come to hospital to die.

Access to prisons and prisoners

Kenyan human rights NGOs are not allowed to visit prisons, despite the fact that the law does not prohibit access by members of civil society. Lawyers, doctors and relatives of prisoners have also all reported problems in gaining access to prisoners, which is heavily regulated.

In January 2000 a team of doctors from the Kenya Medical Association (KMA) were barred from entering Kodiaga Prison by armed riot police. The doctors were responding to reports by prisoners of deaths, torture, outbreaks of diseases, hunger, lack of medical attention and deliberate infection of HIV/AIDS. The doctors were planning to examine prisoners, assess the medical conditions and distribute medical supplies. Dr Buteyo, the then chair of KMA, stated that "We will continue to press for independent inspection of prison facilities all over the country by health professionals without necessarily having to book long appointments" (*Daily Nation*, 23 January 2000). The District Commissioner denied that conditions in Kodiaga Prison were poor.

The conditions of prison officers

The conditions of prison officers are also very poor. Their salaries are low, their accommodation is often cramped with little privacy, the food and water they have to consume is little different to that of prisoners. There are reports that prison officers sell soap, cigarettes, blankets and water to prisoners to augment their salaries.

Government action

In response to national and international pressure the government introduced the Community Service Orders Programme in July 1999 in an attempt to reduce overcrowding . Since then over 20,000 minor offenders have reportedly been given non-custodial sentences. A workshop was organized in May 2000 by the Ministry of Home Affairs, and the KMA Standing Committee on Human Rights, for members of the justice and criminal agencies, doctors and human rights activists. This followed the refusal by the authorities of entry by a KMA delegation to Kodiaga prison in the beginning of this year. On 1 October 2000 the government published a Bill to set up a Kenya National Committee on Human Rights. The Committee would have the right to visit prisons and other places of detention. However, Commissioners nominated by Parliament will be appointed by the President which will limit their independence. The Bill has not been introduced to Parliament yet.