CHAPTER 14
WOMEN'S RIGHTS BEHIND WALLS
Mechthild Nagel

INTRODUCTION

In the 1990s a global political consensus emerged that “women’s rights” are also “human rights.” In particular, the Beijing Women’s Conference set forth an ambitious agenda, and activist-scholars in the global South began circulating ideas and papers on “putting women in the centre of analysis.” I believe this focus is necessary, especially when it comes to critiquing the current prison system worldwide. Globalization has altered family relations and consumer behaviours, further marginalizing women in caste and class societies. There has been little research done on the impact of globalization on incarcerated women in Africa, with perhaps the notable exception of sex work and trafficking of girls and women from West Africa. This chapter offers a comparative approach to issues faced by criminalized and imprisoned women in several African countries. It also highlights the voices of resistance, especially women political prisoners of South Africa.

AFRICAN WOMEN AND THE GLOBAL HUMAN RIGHTS AGENDA

When feminists in the global North talk about women’s rights in Africa, inevitably the first thing that comes to mind is the topic
of female circumcision or, in feminist-charged speak, female genital mutilation. This discussion may be followed by other discussions of sexualized violence, such as trafficking, AIDS, and, occasionally, customary practices such as polygamy and land tenure. On the bright side, the UN Millennium Goals have broader and more explicit gender perspectives affecting women in Africa, including economic and educational rights. Yet, overall, despite the important shift of the human rights agenda to do more than lip service to women’s rights, African women get short shrift.

Feminist writer and educator Abena Busia tries to shift the discourse about women in Africa through a new academic endeavour, Women Writing Africa, sponsored by Rutgers University. She shares the following insight in an interview with WHR.net:

In Women Writing Africa we collect women’s cultural production—oral and written, formal and informal, sacred and profane. We try to collect whatever we can lay our hands on, as far back as we can get. We are looking at things that we know were written or spoken in female-centered spaces, about things that only women could say or in circumstances that women can control. What we are trying to do is get a sense of the way women have agency and control over their lives and negotiate their lives differently.

We just got so tired of our non-existence as women of power and agency in Western discourse where we are predominantly viewed as perpetual victims—a barefoot pregnant woman holding a baby in our hands, or a barefoot pregnant woman with a baby on our back and hoe in our hand. We are labeled endlessly. That sense of missing many things—such as no agency, no affective space, no human negotiation—all those things, which in fact, everybody knows are profoundly central to our existence and shape our lives. (WHR.net 2003; emphasis added)
Given the colonizing lens that Busia describes so well, the outsider expert continues to label and exoticize the hapless African woman, and knows which remedies work best for African women and children (Mohanty 1990; Nagel 2001). This patronizing "speaking for" attitude has come under criticism, in particular with respect to vociferous attacks on female genital mutilation by non-African feminists (Butegwa 2002; Welch 1995).

In the decade of emerging women's rights, which culminated in the Beijing Women's Conference, it turned out that the African regional committee provided much food for thought for the conference. The final platform for action drew much of its content from the preparatory African meetings. No longer would African women be silent bystanders who have to be represented by "well-meaning" northerners; rather, under the leadership of Gertrude Mongella, dubbed in Africa as "Mama Beijing," they have joined the centre of discussions and shaped the platform for women decisively.

Now, having argued that one should take care not to "speak for" but to "speak with" African women, this chapter suffers from a particular epistemological and political dilemma. How does one address human rights violations concerning non-elite women without falling into the patronizing trap? How do women, who are walled in either in their families' compounds or in the state's carceral structures, participate when they do not get the chance to speak? Florence Butegwa (2002) argues sensibly that outsiders may speak on behalf of the oppressed only if it is impossible for the inside group to agitate: "I can see a role for capacity-building, including skills in problem analysis, organizing and advocacy. The content of their advocacy efforts, including definition of issues and possible solutions, should remain entirely for those working from within" (126). In describing women's imprisoned or "walled-in" experiences this chapter attempts to stay clear of normative claims that find little basis in lived experiences. Yet it is difficult, admittedly, to write about women prisoners and not thematize their enormous victimization.
In human rights campaigns almost invariably pure and deserving victims become the poster children. Similarly, in the prison literature about women one tends to find fervent appeals to the women's virtual innocence and rationalizations of a woman's particular offence. I do not claim to do anything different from that paradigm, but I also note that men's criminal acts could easily be justified by drawing on the environmental hypothesis: most violent offenders tend to have been victimized in their childhood by family members or others. Vivien Stern (1998) points out that there is a major difference for women's and men's imprisonment. Unlike men, few women resort to violence, and most commit property offences due to poverty. The world over, women's rate of imprisonment is about five percent (or less) of the total rate of imprisonment of a country (the exception is the United States, due to its "war on drugs" policy, which has targeted women).

I argue that there are two types of women prisoners: "imprisoned intellectuals," borrowing a term from Joy James (2003), and social prisoners. On the one hand, there are women who politically organize and oppose family and/or state power, of the stature of a Winnie Mandela (South Africa) or Wangari Maathai (Kenya), who may find political clout thanks to their international connections and even win prestigious prizes for their daring opposition to patriarchal, kleptocratic, and dictatorial regimes. On the other hand, there are invisible women who are criminalized and become social outcasts, women who have born children out of wedlock (Amina Lawal, Nigeria, one of the most prominent of castigated, fallen women) and who may turn their luck around thanks to energetic African lawyers (Hauwa Ibrahim, Nigeria) and local NGOs (e.g., Women Living under Muslim Laws). But most women who end up as social or common prisoners do not have high-end representation and face a number of challenges rarely addressed by human rights agencies.
AFRICAN HUMAN RIGHTS DISCOURSE: COLONIAL PARADIGM OR LIBERATORY PRACTICE?

In recent years several conferences and books have been devoted to the question of human rights in Africa. Does it make sense to focus on a “rights discourse,” or is it more prudent to use “other languages of resistance” (An-Na’im 2002)? The human rights declarations that evolved from the global North focus almost exclusively on the negative rights of the individual against state power: from the British and American Bills of Rights to the Universal Declarations of Human Rights, these documents focus on individualized freedom to pursue self-interested ideals apart from community needs. Such ideology is alien (and therefore not universalizable) to most of the globe, where community interests trump individual interests, especially the possessive individual pursuit of happiness. Thus, John Mbiti (1970, 141) rearticulates the egocentric Cartesian *cogito* into a sociocentric variant: “I am because we are, and because we are therefore I am.” Clearly, a Eurocentric “rights discourse” devoid of sensitivity toward cultural practices will not be applicable in an African context of sociality and responsibility toward one’s community, customs, and elders. However, due to the colonial legacy, the rights discourse has firmly been instituted in the legal instruments of African countries.

The African Charter on Human and Peoples’ Rights (1986) weaves together different traditions, and the outcome has been assailed as a contradictory mix of rights and duties of the individual and groups (Mutua 2002). However, as Makau Mutua emphasizes, Western human rights experts have underestimated the reality of individual rights of Africans before colonial conquest. Mutua’s cursory view of precolonial practices of adjudication highlights the high respect for human life and the dignity of the person, the guarantee of equal protection of individuals (e.g., the Akamba of East Africa), the ability to dismiss a chief who rules oppressively (in the Akan society of West Africa),
the presumption of innocence, and dedication to the juridical process (e.g., the Amhara of East Africa). Mutua is careful not to romanticize the historical record of precolonial Africa and points to cases where human rights of individuals, especially the rights of women, were not safeguarded. So in what ways can individual and group rights coexist in harmony, as the African charter imagines? The new South African Constitution (1994) also commits itself to this ideal of coexistence. However, the past decade witnessed serious tensions, particularly in customary family law (Chanock 2002). In 2005 the South African Supreme Court ended some aspects of the debate by ruling that customs that discriminate on the basis of gender have to be abolished. The debate is still going on in the northern states of Nigeria, which ushered in sharia law in 2000.

When it comes to the adjudication of rights, whether as group/culturally based rights or as individual rights, one has to look at individual cases for which the ideological position might be most advantageous and representative of women’s needs. This is especially important for women who have transgressed against a person or against social standards. Here I would like to contrast practices in two different parts of West Africa: Mali and northern Nigeria.

A woman in Mali killed her husband because he had married a second wife. The first wife poisoned the husband on the day of the naming ceremony of the second wife’s child. The family’s jéli (bard who engages in informal conflict resolution) intervened, and it was agreed to banish the offender from the village; she went into exile at her paternal home. Nobody proposed turning her in to the police, despite the severity of the crime (Kone 2003). The police, too, when called to arrest an offender, will ask whether people have tried to resolve the conflict in the customary way. This may be a bewildering gesture if one is accustomed to the Western worldview that an offence is done against the state, first and foremost, which then intervenes on behalf of the victim, and it may seem that victims’ rights are disregarded in communally based adjudication. However, one ought to see the other side too.
When British colonialists started to prosecute persons for crimes against the Crown, such as property theft or murder (of another African), victims were bewildered when they did not receive the customary restitution from the offender’s clan. “Doing time” in a penitentiary serves no purpose from the point of view of the aggrieved. Mali is a predominantly Muslim country that does not condone sharia law, but allows indigenous practices of mediation by the jedi caste and joking relatives to restore peace in the community and to solve conflicts between persons and clans. “Cultural justice” may not have to clash with secular “criminal justice” (Comaroff and Comaroff 2004), but the next case shows that it certainly can.

The Zamfara State government of Nigeria adopted the Islamic legal system, sharia law, in January 2000, in disregard of the secular nature of the Nigerian Constitution and of other religious minorities living in this state. Sharia law was declared by the governor as “not just a penal code but a way of life” (Abdullah 2002). All women were soon banned from sports activities, and single women received an ultimatum: get married within three months or lose your job! The controversy about the law heated up when the first penal sanctions were delivered: limb amputation for theft and public flogging of prostitutes and a male procurer. International attention came along with the conviction and flogging of seventeen-year-old Bariya Ibrahim for the offence of fornication. Proof of the offence was based on the fact of her pregnancy and her unmarried status. Such proof, however, is quite spurious, given that sharia law stipulates third-party eyewitnesses of the transgression of fornication, which did not occur (Abdullah 2002). Amina Lawal’s case of adultery followed two years later, but her conviction and death sentence were overturned by the Sharia Court of Appeal.

These two cases show that it is impossible to differentiate between (pure) customs and traditional practices, on the one hand, and politically expedient customs, on the other. Customs are always open to contestation and interpretation; they can be read in a progressive way or in a reactionary way. This is meant
as a caveat to liberal feminist human rights experts who jump to the defence of a woman cast as a victim of customary practices. I simply wish to point out that a human rights adjudication that relies on imprisonment as its main instrument may also be harmful to women.

A BRIEF HISTORY OF PRISONS IN AFRICA

Prisons in Africa are an un-African institution. In precolonial African societies one of the harshest sentences faced by an offender was expulsion; exile equated to social death. When the European colonialists arrived, in the "scramble for Africa," they converted slave forts along the Atlantic coast into jails or cachots (Bernault 2003). Chinua Achebe’s (1954) anti-colonial novel Things Fall Apart describes well the trauma incurred by political leaders of the community who faced incarceration by the colonial power. For the African psyche it was simply unimaginable to utilize prisons as a form of punishment. West Africa’s measures for crime control tended to be restorative and retributive justice; collective punishment, rather than individual punishment, was also common. Where an individual defrauded a member of another clan the offender’s entire clan may have had to pay restitution, as is still commonly practised in Mali (Kone 2003).

During colonial times sexual assault and gang rape were particularly prevalent because women were not given separate quarters from men in prison. In Senegal African women were expected to cook for the entire prison population and sleep in the kitchen or on the porch of the fort or prison compound (Konate 2003). Colonial prisons enforced racial segregation, and European prisoners were housed in the vicinity of the warden’s office or compound (Goerg 2003).

In postcolonial Africa several notorious prisons were shut down, and some serve as memorials for a haunted past, such as Robben Island, where South Africa’s anti-apartheid activists were imprisoned. Due to the international pressures of the United Nations and human rights organizations, a few countries
have opened separate prisons for women and adolescent men. However, most African prisons house men, women, and children, and may merely provide separate sleeping quarters for men and women.

Since the 1990s a few African governments have also invited an intergovernmental, regional agency to inspect their prisons. The African Commission on Human and Peoples’ Rights appointed a Special Rapporteur on Prisons and Conditions of Detention in Africa. “This [appointment] provides a unique opportunity to take a more holistic approach to the problems in prisons which an individual appointed to consider torture or inhuman treatment, for example, may not” (Murray 2002). The rapporteur has noted in published reports that many African prisons face the following challenging conditions: severe overcrowding, unsanitary living quarters, inadequate diet, mixed gender facilities, and a high percentage of prisoners on remand. The rapporteur visited Malian prisons several times and acknowledged improvements made after his recommendations. This, however, is a rare case of encouraging news. Most African countries prefer to take the walls behind which their citizens disappear to stand for “walls of silence” rather than offering their prisons to inspection and critique by an outside rapporteur. Given enormous budgetary constraints, governments are also under pressure by the public to invest in schools and health care before ameliorating the conditions of the least desirable subjects: prisoners.

GENERAL ISSUES OF WOMEN’S HUMAN RIGHTS BEHIND CUSTOMARY WALLS OR PRISON WALLS

Demographics of Criminalized Women

Even in Africa, prisons have turned into “homes” for young, socially displaced, undereducated, and poor women, many of whom are also mothers. Social displacement is an effect in part of globalization and structural adjustment. More single women leave their rural homes and venture into the cities for gainful employment. Unlike their male counterparts, female convicts’
crimes tend to be non-violent, such as theft. Certain occupations, such as sex work or domestic work and, to a lesser extent, drug-dealing, expose women to a higher risk of sexual abuse and criminalization. Domestic workers tend to be young, rural, unmarried women who may risk being assaulted or raped by their patrons, and in countries where abortion is illegal they may commit infanticide out of despair. In some women’s prisons, such as in Bamako, Mali, the majority of prisoners and remanded women are accused—or convicted—of infanticide. Mali does not sanction legal medical procedures for the abortion of an unwanted child. The social sanctions of having a child out of wedlock are severe. Unfair and sexist trial procedures put women at further risk. A divorced woman whose baby was stillborn was charged with murder because her doctor’s evidence was not introduced in court (Amnesty International 2004).

In several African countries the familial practice of polygamy seems to be an additional stress factor, but it affects more women who have never received formal education and those who dropped out of primary education. Polygamy seems to be losing widespread support due to westernization, urbanization, and Christianity. A recent Ugandan study (Tibatemwa-Ekirikubinza 1999) actually notes the higher prevalence of female criminality (targeting the husband, junior co-wife, or the co-wife’s child) in rural regions where polygamy is prevalent. Prisoners, in particular those who were senior wives, note the disparities in asset-sharing by their husbands; many times these convicts rationalize their violent offences by accusing the husband of total economic and emotional abandonment of the senior wife and her children, and devoting all the jointly earned resources to the new co-wife (Tibatemwa-Ekirikubinza 1999). The majority of women who are convicted of violent crimes have been in abusive relationships (see Walker 1984 on battered woman syndrome), and it is only since the UN conference in Beijing (1996) that domestic violence has been taken seriously as a public health concern. Yet women who kill their abusive partners in self-defence or in premeditation receive punitive sentences, including capital punishment, rather than leniency and compassion.
Custodial Conditions
The United Nations rule that only women should guard women is widely followed in Africa (unlike in the global North). Male guards or visitors may enter women’s quarters only in the presence of other female guards, or, as in Nigeria, men can only enter in exceptional circumstances, such as medical personnel providing health care (Stern 1998). Male prisoners can be a threat to women’s well-being, which makes it necessary to insist not only on separate sleeping quarters but also on separate institutions, which was implemented in the capital of Mali in the late 1990s. The women’s prison at Bolle (near Bamako) now serves as a model prison, not only in Mali but also on the continent. Few countries run separate women’s prisons because of economics. Women’s sections tend to be merely cordoned off by a high wall or housed in makeshift buildings. They are treated as an afterthought (Stern 1998).

In many countries unsentenced detainees held for more than five years comprise over seventy percent of the prison population. What is often deemed “death by natural causes” by prison officials is actually caused by lack of sanitation and clean drinking water, dietary deficiency, lack of adequate health care, and overcrowding. Mortality rates increase dramatically during the rainy season (Agomoh 2000). Often prisoners’ families have to supply food, soap, hygienic products, and blankets for the prisoners. African governments are loath to spend the national budget on prisoners’ amenities in part because of the public’s outcry of undue favouritism toward criminals. In Kenya warders also live in prisons with their families in squalid conditions, which may well turn them into brutes who torture or kill prisoners (Muiruri 2005).

A recent Zimbabwean study (Musengezi and Staunton 2003) problematizes the lack of gender-specific consideration. Men’s prisons are the standard according to which women are housed in sections of men’s prisons or — more infrequently — in separate facilities. Therefore, women do not receive items that are not allocated to male convicts (e.g., basic sanitary items).
South African women common law prisoners were particularly denigrated by being denied panties and cotton from the prison system in the 1970s (Kuzwayo 1985). The lack of basic health and dietary needs is particularly grave for pregnant women. In most prisons in Africa pregnant convicts get minimal or no pre- or perinatal care; child mortality, as a result, is higher in prisons than in civil society.

Most female prisoners are mothers, and young children often stay with them in part because the father has abandoned the mother upon her incarceration or because the mother’s family is ashamed of her convict status and refuses to take the child. In some prisons no extra clothing is provided for the child, and children suffer from the same poor diet as their mothers, so that the children are literally punished along with their mothers (Taylor 2004; Tibatemwa-Ekirikubinza 1999). “Women with babies in prison seem to carry a double punishment of coping themselves and fending for their children” (Musengezi and Staunton 2003). Measures of rehabilitation are minimal, and prison chores are overwhelmingly domestic—reinforcing the gendered division of labour. Many women are illiterate and have minimal formal education. Linguistic difficulties may adversely impact ethnic minorities and immigrants, who do not understand the lingua franca of the courts and the prison staff (de Klerk and Barkhuizen 2001).

In South Africa, where there is now an active prisoners’ rights association (South African Prisoners’ Organization for Human Rights) that even won the right to vote for convicts in the 1990s, rules seem to be selectively enforced with respect to illicit sexual practices. Since 1996, in male prisons, condom dispensers are ubiquitous, and condom use is encouraged to curb the spread of AIDS. On the other hand, in women’s prisons, perceived lesbian convicts are reported to prison staff, and lesbians may also fear reprisals by other convicts (Dirsuweit 1999). This is not to say that relationships in men’s prisons are of a consensual nature, and adolescents housed in adult prisons are vulnerable to assaults and sexual exploitation.
Political Prisoners
From the onset of the colonial conquest the carceral compound was used for political control of Africans. However, after decolonization many governments continued with the practice of incarcerating political opponents (Bernault 2003); even leaders who were political prisoners under colonial rule enthusiastically locked up their political opponents (Asumah 2001). Much of women’s political imprisonment is predicated on their participation in liberation struggles during the colonial and apartheid era. Women instigated revolts against poll taxes (Nigeria) and fought alongside men for national liberation (e.g., Mau Mau members in Kenya, pass law resisters in South Africa). Many women faced sexual assault, rape, and other forms of torture and murder in detention camps and prisons cells (Harlow 1992; Kuzwayo 1985; Tesfagiorgis 1992; wa Wamwere 2002). Women political leaders also faced house arrest and banishment, which turned the banned person into a self-policing docile body (Ramphele 1995). Winnie Mandela, banned during apartheid, was so acutely aware of her exceptional status under the apartheid regime that she was always prepared to return to prison, having a suitcase ready at all times (Mandela 1985). Similarly, Gambo Sawaba readied her loin clothes because she was incarcerated more than a dozen times for her defiant stance (Shawalu 1990).

Political detainees and prisoners differentiate themselves from common or social detainees and convicts. They report serving their sentences with pride and determination. They instigate hunger strikes and launch grievances, never coming to terms with the label of prisoner; some refuse to work, and all refuse to be “rehabilitated.” Some women are erroneously detained for participating in illegal political movements, yet upon release they actually join the liberation movement that they were falsely accused of belonging to (Tesfagiorgis 1992). In South Africa under apartheid political prisoners attempted to make common cause with common prisoners, who were condemned to hard labour (Meer 2001). Sometimes the warden
placed common prisoners with political prisoners to press them into service to inform on the latter (Makhoere 1988). However, political prisoners were often able to educate common prisoners about their lot and the oppressive situation. Northern Nigerian political prisoner and Muslim Gambo Sawaba counselled other Muslim women to say that they were practising Christians to evade harsh sanctions of the sharia court (Shawalu 1990).

But at times political prisoners distance themselves from the "unfortunate drunks" and outcasts (First 1989). This hierarchy is reinforced by the warden's "fear of infectious belief": political detainees and political prisoners tend to be totally segregated so that they cannot incite the mass of social prisoners to rise up and organize for better prison conditions or, worse, to "conscientize" (to use South African vernacular) them about party politics. Almost all political prisoners who have written memoirs have participated in or organized a hunger strike to protest prison conditions. Caesarina Koma Makhoere (1988) reports that her cohort instigated the first strike in South Africa's women's prisons in 1976—a time of mass arrests and deaths in detention of schoolchildren in the aftermath of the Soweto uprising. After 1976 the isolation of detainees increased. Being segregated for only a short time attacks the soul of the political prisoner; once the sense of time breaks down, sensory deprivation creates psychopathic and somatic responses; one ages faster and may have long-term health problems as a result of isolation (First 1989; Makhoere 1988; Mashinini 1989; Mandela 1985).

Sometimes political prisoners are allowed no other literature than the Bible or the Qur'an; they use the scriptures to shed light of their situations (Makhoere 1988; Meer 2001), in particular when they face psychological torture, such as interrogation (First 1989). Makhoere (1988) discovered the subversive messages of the Bible when she adorned a letter of complaint to prison authorities with pithy quotations from it. The letter was torn up by the apartheid prison officials. One political prisoner reports that male activists considered women's imprisonment to be lighter than what men experienced (Middleton 1998). While it was the case, as First
(1989) and others admit, that white women had much better conditions (especially regarding hygiene and food) than black women, it cannot be said in general that women suffered less than men from imprisonment and especially from isolation.

Release
There are long-term negative physical and psychological effects associated with incarceration. Many former political prisoners complain of heart problems, tumours, and other diseases affecting their long-term health. Emma Mashinini's account (1989) of her six-month solitary detention reveals an intense level of post-traumatic stress disorder (PTSD). Her isolation was only interrupted by extended interrogations by her tormentors. For social prisoners the return to civil society also involves an inordinate ordeal of shame, another form of social death. In the Bolle prison in Mali women who are going through an apprenticeship programme (e.g., learning soapmaking or typewriting) are told that they can return after their release to complete the programme. Few do so because society would judge them to be imprisoned again (Nagel 2007).

On the other hand, in Kenya some prisoners refuse to leave after their official release dates because prison has become a home after the vice president in charge of prisons instituted a series of reforms since 2003 (Obonyo 2005). Release may not necessarily be associated with freedom, for ex-convicts face "hostility, rejection and disdain from their families and society" (Ayieko 2005). Elizabeth Mwita, released in June 2005 after sixteen months of jail time, was served with divorce papers from her husband, who did not want to consort with somebody convicted of a criminal charge. He never visited her once in prison, which is a fairly typical experience for married women prisoners. In Bolle women's prison, Mali, women are allowed family visits, but rarely do family members come, whereas the men's prison in downtown Bamako bustles every day with wives visiting and bringing food to their incarcerated husbands. In addition,
children of convicts and ex-convicts find themselves stigmatized and have difficulty finding work in Kenya (as elsewhere) (Ayieko 2005).

Clearly, the stigma of incarceration has huge repercussions for extended family networks. While the shame of imprisonment is felt by men and women alike across the continent, women and their children bear the brunt of a jail sentence—many studies the world over have shown the psychological, social, and economic costs associated with the incarceration of women who carry the main responsibility not only for parenting but also for subsistence living for their (extended) families (Taylor 2004).

For imprisoned intellectuals return to the community is experienced differently. Many such prisoners note with pride that they endured persecution, banishment, and prison life, and at times even “confess” to their interrogators that “everything I had done I would willingly do again” (First 1989, 90). Fatima Meer (2001), a former president of the Black Women’s Federation of South Africa, reports that she did not want to miss the experience of five months of detention, even though she was already a banned person by the time she was detained. But she enjoyed great spiritual and material support from her family during her prison stint, and thus she did not endure the social ostracism with which common prisoners have to deal.

Women who are politicized because of group membership and subsequently tortured, and who have to adhere to an honour code, find it difficult to talk about their experiences, especially with their spouses. They often suffer from severe PTSD (Wenk-Ansohn 2002). According to psychologist Mechthild Wenk-Ansohn, men who have gone into prison due to participation in liberation movements tend to have less severe PTSD problems, even though they may have been severely tortured too. Their conviction about the cause tends to help them adjust to new circumstances, such as being refugees in a foreign country and culture, and their healing and social readjustment are more easily assured. Ex-prisoners who write about their detention experiences may find writing about them therapeutic (Pross 2002). Rarely do we find accounts by social prisoners. South
African Pumla Mkhize (1992), who was forewarned by her mother about prisons being “a snake with ice water,” clearly is exceptional in discussing frankly not only the reasons for her incarceration but also how she gained favours inside (and early release) by snitching on other convicts. Snitching is considered to be one of the worst forms of transgression within the prison and violates the prisoners’ own moral code.

CONCLUSION

This chapter has discussed in broad strokes human rights issues of African women, in particular those who are “walled in” by “culture” or by “criminal law” statutes. Let me return to the un-African custom of incarceration by the state.

Without question, women who enter the criminal justice system have experienced serious victimization prior to arrest and incarceration. While the reasons for their incarceration may be country-specific, victimization coupled with poverty comprises a major factor in pushing a woman into a difficult situation. It is then quite easy to argue for more lenient sentences for women-victims-turned-perpetrators. One can argue that women should not face incarceration because it aggravates their already poor social status and gives them fewer choices when they return to civil society. Furthermore, the sentence often disconnects a mother from her children, who in turn are likely to become felons and prisoners too. However, it is quite another matter to argue for leniency toward other perpetrators, say men. Nevertheless, this is what some feminist prison activists are prepared to do. From the classic Instead of Prisons (Knopp et al. 1976) to the manifesto Prisons and Social Control (Kinesis 1987) activists have argued for the abolition of the criminal justice system, in particular curtailing the sentencing of people to prisons and making them into “slaves of the state” (Muntaquim 2003; Nagel 2003).

Human rights are safeguarded only when people are indeed treated with humanity, and 200 years of the experiment of caging people have shown us that prisons not only are “crime schools”
but also prepare people for savagery and despair, not penitence and rehabilitation. Minimum standards for prisoners ought to be guaranteed, but this should not be the end of one's advocacy. It is merely the starting point of acknowledging that nobody forfeits rights, not even a prisoner on death row, and much more has to be done to encourage prison reform and eventual abolition.

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NOTES

1 The following is based in part on Nagel (2005).
2 Some of my discussion on prisons and restorative justice in Mali is based on Nagel (2007).
4 Kenya, which has experienced a series of prison reforms since the NARC government took power in 2000, opened its first women-run police station in Nairobi in 2004. Kilimani Police Station deals exclusively with crimes and violence committed against women and children. In August 2004 a government report noted that more than half of the women in Kenya have experienced violence since the age of fifteen. Most of the violence is attributed to husbands, some sixty percent of beatings. Some of it leads to violent deaths of the women (Muiruri 2004).

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