

COVID-19: PRISONS AND DETENTION IN AFRICA

Prisons and detention facilities are high-risk environments for the spread of COVID-19, especially where they are overcrowded, cannot maintain adequate standards of physical distancing, sanitation and hygiene, and are limited in their capacity to ensure access to medical treatment.

In several countries around the world, the heightened risks of COVID-19 infection in prisons, combined with new restrictions on visits and communication with people outside prison, has intensified anxiety and tensions amongst people held within them, in some cases resulting in riots, escapes and violence.¹

Ensuring the safety and health of both prison staff, and people deprived of liberty, requires urgent action to reduce the risks and consequences of widespread COVID-19 infection.²

1. Prisons and detention facilities in Africa

Prisons in Africa are often considered the worst in the world in terms of violence, overcrowding and a host of other problems. Many are in a deficient condition and their practices are at odds with human rights standards. Generally speaking, those incarcerated in African prisons face years of confinement in often cramped and dirty quarters, with insufficient food allocations, inadequate hygiene, and little or no clothing or other amenities.

According to the World Prison Brief, prisons are overcrowded and under-resourced across Africa.³

Yet large numbers of people are held in prisons, jails and other detention facilities. For example, Nigeria detains around 71,500 people in prisons, Kenya 51,000 and Ghana 14,500.⁴ In South Africa, one of the continent's wealthiest countries, prison occupancy stood at 137% in March 2019 – with 162,875 detainees.⁵ In cramped conditions, and with communal activities such as eating, showering and using the toilet, it is impossible for prisons to comply with global advice on COVID-19 and physical distancing.⁶

Furthermore, people deprived of liberty are more likely to have underlying health conditions, and at greater risk of prevalence of HIV, viral hepatitis and tuberculosis, which increase their vulnerability to COVID-19 infection.⁷

In many African countries, more than 40% of the prison population are pre-trial detainees, mostly for minor non-violent drug offences.⁸ Drug laws and drug offences are a key driver behind overpopulation of prisons because drug laws and responses are often disproportionate.⁹

2. Prisons and COVID-19

People in detention are particularly vulnerable to the COVID-19 outbreak.¹⁰ Recent news around the world shows an outbreak of coronavirus cases reported in prisons:

- In Kenya, cases were reported in the Naivasha, Kamiti and industrial area maximum prisons,¹¹ whilst around 40 people remain in isolation.
- Moroccan authorities have confirmed 53 new coronavirus cases at a prison in the north-western city of Tangier, bringing the total infections inside prison facilities to 397.¹²
- South Africa has registered 172 confirmed cases of COVID-19 and three related deaths at its correctional facilities, including inmates and staff.¹³
- Also in South Africa, two Eastern Cape prisons have registered outbreaks after complaints from prisoners that they are not receiving any form of protection against the virus.¹⁴
- In Côte D'Ivoire, overcrowding in Abidjan prisons has increased to 450%, with impacts on various diseases and the availability of medicines.¹⁵

International Guidance on COVID-19 in Prisons

Several of the key UN agencies have recently released a joint statement on COVID-19 in prisons and other closed settings, urgently calling on political leaders to address the heightened vulnerability of prisoners and other people deprived of liberty to the COVID-19 pandemic, by taking all appropriate public health measures, including reducing prison overcrowding.¹⁶ (See **Annex 1**).

The UN High Commissioner for Human Rights, Michelle Bachelet, has also called on governments to reduce prison populations urgently, thus protecting people in places of detention, and preventing uncontrollable outbreaks.¹⁷

These proposed measures are not new. They are in line with existing international standards (such as the Nelson Mandela Rules,¹⁸ the Bangkok Rules,¹⁹ and the Tokyo Rules²⁰), and are also reflected in the African Commission on Human and People's Rights regional guidance (such as the Luanda Guidelines²¹). For several years, countries have been encouraged to reduce prison populations. Now with COVID-19 spreading fast, these measures need to be prioritised.

3. Policy responses around the world

There have been confirmed cases of COVID-19 amongst people deprived of liberty and prison officers in many countries.²² Several of these countries are taking measures to reduce the prison population as a key strategy to prevent the spread of the virus. For example²³

- Many US states are releasing people held on pre-trial detention
- Afghanistan has provided pardons or early release to around 23,000 people
- Brazil has given an estimated 30,000 people 'temporary release'
- Indonesia will grant early release to more than 50,000 people
- Iran has released over 85,000 prisoners (including 10,000 pardons)
- Myanmar has released around 25,000 people
- Turkey has released or transferred to house arrest for 100,000 people

Some countries in Africa are also slowly starting to take action, as the table in **Annex 2** shows.

3. Recommendations

Governments should review cases of people in detention, and take the following measures to reduce the number of people in prison:

1. Suspend or reduce all arrests and admissions into prisons and other detention facilities, especially for non-violent and minor offences – including those related to drug use and possession for personal use, as well as violation of curfew and 'lockdown' orders relating to COVID-19 response measures.²⁴
2. Limit the deprivation of liberty, including pretrial detention, to a measure of last resort, particularly in the case of overcrowding, and to enhance efforts to resort to non-custodial measures. These efforts should encompass release mechanisms for people at particular risk of COVID-19, such as older people and people with pre-existing health conditions, as well as other people who could be released without compromising public safety, such as

those sentenced for minor, non-violent or drug offences, with specific consideration given to women and children.²⁵

3. Provide alternatives to pre-trial detention for people held in pre-trial detention, particularly those for minor or low-risk offences such as people who use drugs and low-level drug offenders. Alternatives such as bail or electronic tagging could be provided if deemed absolutely necessary.
4. Pregnant women and women with children should immediately be considered for release – through various measures such as bail, early release, pardons or suspended sentences.
5. At risk populations (such as people who use drugs, elderly prisoners, and those living with HIV, hepatitis, tuberculosis or other underlying health conditions) should immediately be considered for release – through various measures such as bail, early release, pardons or suspended sentences.
6. Government should release individuals sentenced for minor, low risk offences (including non-violent drug-related offences), and particularly those who have 18 months or less remaining of their sentence.

By reducing the prison population, these measures will not only help to protect people in prisons and detention facilities, but also staff working in those facilities, lawyers and others working in the criminal justice system.

Stop arresting people for minor offences

The police have a vital role to play in ensuring that police stations, courts and prisons are not overcrowded. They can help to reduce the burden on government institutions at this crucial time. To do this, the police should not arrest people for minor offences such as drug possession or use. Where strictly necessary, non-custodial measures should be used instead such as diversion, a warning or bail.²⁶

Fulfil and protect the human rights of people in prison and detention

Prisons need to ensure that the human rights of those in their custody are respected, including the right to health, and that people are not cut off from the outside world. Crucially, those in detention must have access to information and adequate healthcare provisions.²⁷ This includes:

1. Improving standards of sanitation and hygiene, including by ensuring the stock of soap, drying materials for hand washing, alcohol-based hand sanitisers that contain at least 60% alcohol, and environmental sanitation and disinfection.
2. Ensuring the availability of personal protective equipment, especially for prison and healthcare staff, and clear guidance on when and how to use it.
3. Ensure availability of testing for COVID-19, and access to medical treatment for people deprived of liberty. Those who need medical treatment should be transferred to a hospital or health care facility.
4. Everyone, including those placed in isolation, should be allowed every day two hours of meaningful human contact as well as the ability to access legal advice and representation.
5. Ensure that people deprived of liberty are provided with additional psychological support.
6. Restrictions on external visits should be proportionate, and compensated with increased access to phone or online communication for free.

Measures should also be put in place to ensure that organisations can continue detention monitoring. The World Health Organisation has stressed that the COVID-19 outbreak must not be used as a justification for objecting to external inspections.²⁸ Independent international or national bodies with mandates to prevent torture and other cruel, inhuman or degrading treatment or punishment must still be able to monitor detention centres.

Annex 1: Key guidance relevant to COVID-19, prisons and detention

- World Health Organisation (WHO), Europe office: [Preparedness, prevention and control of COVID-19 in prisons and other places of detention](#)
- United Nations Office on Drugs and Crime (UNODC): [Position Paper COVID-19 preparedness and responses in prisons](#)
- UNODC, WHO, UNAIDS, OHCHR: [Joint Statement on COVID-19 in prisons and other closed settings](#)
- UN Inter-Agency Standing Committee: [Interim Guidance – COVID-19: Focus on Persons Deprived of Their Liberty](#), WHO and Office of the High Commissioner for Human Rights (OHCHR)
- Statement by the UN expert on the right to health [on the protection of people who use drugs during the COVID-19 pandemic](#).
- OHCHR Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, [Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic \(adopted on 25th March 2020\)](#)
- Penal Reform International, [Coronavirus: Healthcare and human rights of people in prison](#)

Annex 2: Number of prisoners released in Africa, according to selected reports (data accessed 15 May 2020)*

Country	Number of prisoners to be released	Type of release
Algeria	5,037	Pardons
Burkina Faso	1,207	Pardons
Cameroon	1,000	Unclear
Cote d'Ivoire	2,004	Early releases and pardons
DR Congo	2,000	Pre-trial detainees and temporary releases
Ethiopia	4,011	Pardons
Egypt	4,001	Pardons and conditional releases
Ghana	808	Amnesties and first-time offenders
Kenya	4,800	Early release
Libya	466	Pre-trial detainees and conditional releases
Mali	1,200	Pardons
Morocco	5,654	Pardons
Mozambique	5,032	Amnesties
Niger	1,500	Early release
Nigeria	Up to 50,000	Pre-trial detainees
Senegal	1,846	Pardons
South Africa*	19,000	Conditional releases
Sudan	4,217	Early releases
Togo	1,048	Pardons
Tunisia	1,420	Amnesties
Uganda	2,000	Pardons
Zimbabwe	1,680	Pardons

*The data for South Africa has been updated as of 7 August 2020.

Several civil society groups across Africa -from [Sierra Leone](#) to [Nigeria](#) and [Uganda](#)- are calling for similar or greater responses to be implemented in their own countries.

Endnotes

- ¹ H. Summers, 'Everyone will be contaminated': prisons face strict coronavirus controls (23 March 2020), published in The Guardian. Available at: <https://www.theguardian.com/global-development/2020/mar/23/everyone-will-be-contaminated-prisonsface-strict-coronavirus-controls>; The Bangkok Post, *Prisoners escape in Buri Ram jail riot after Covid-19 rumour* (2020). Available at: <https://www.bangkokpost.com/thailand/general/1888805/prisoners-escape-in-buri-ram-jail-riot-after-covid-19-rumour>
- ² International Drug Policy Consortium, *COVID-19: Prisons and detention in Southeast Asia* (2020). Available at: http://fileserver.idpc.net/library/IDPC-Advocacy-Note_COVID19-prisons-and-detention-in-SEA_April-2020.pdf
- ³ Institute for Crime & Justice Policy Research, *World Prison Brief data*. Available at: <https://www.prisonstudies.org/world-prison-brief-data>
- ⁴ Ibid.
- ⁵ L. Ensor, *Prison overcrowding a 'disturbing' problem for government* (17 July 2019), published in BusinessDay. Available at: <https://www.businesslive.co.za/bd/national/2019-07-17-prison-overcrowding-a-disturbing-problem-for-government/>
- ⁶ International Drug Policy Consortium, *COVID-19: Prisons and detention in Southeast Asia* (2020). Available at: http://fileserver.idpc.net/library/IDPC-Advocacy-Note_COVID19-prisons-and-detention-in-SEA_April-2020.pdf
- ⁷ L. Roy, *Infections And Incarceration: Why Jails And Prisons Need To Prepare For COVID-19 Now* (11 March 2020), published in Forbes. Available at: <https://www.forbes.com/sites/lipiroy/2020/03/11/infections-and-incarceration-why-jails-and-prisons-need-to-prepare-for-covid-19-stat/#2ac566c049f3>
- ⁸ Birkbeck University of London, *Around 3 million held in pre-trial detention worldwide: new report* (2017). Available at: <http://www.bbk.ac.uk/news/around-3-million-held-in-pre-trial-detention-worldwide>
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- ¹⁰ African Arguments, "COVID-19 in Africa category", Available at: <https://africanarguments.org/category/covid-19-in-africa/>
- ¹¹ L. Wanambisi, *42 inmates at industrial area remand prison isolated after contact with 2 COVID-19 cases* (11 May 2020), published in CapitalNews. Available at: <https://www.capitalfm.co.ke/news/2020/05/42-inmates-at-industrial-area-remand-prison-isolated-after-contact-with-2-covid-19-cases/>
- ¹² T. Al-Abdalawi, *Coronavirus infections at Moroccan prisons jump to 397* (10 May 2020), published by the Anadolu Agency. Available at: <https://www.aa.com.tr/en/latest-on-coronavirus-outbreak/coronavirus-infections-at-moroccan-prisons-jump-to-397/1835773>
- ¹³ T. Heiberg, *South Africa to parole 19,000 prisoners to curb coronavirus* (2020), published by Reuters. Available at: <https://www.reuters.com/article/us-health-coronavirus-south-africa/south-africa-to-parole-19000-prisoners-to-curb-coronavirus-idUSKBN22K118>; N. Shange, *Coronavirus infections continue to climb in SA prisons* (20 April 2020), published in Times LIVE. Available at: <https://www.timeslive.co.za/news/south-africa/2020-04-20-coronavirus-infections-continue-to-climb-in-sa-prisons/>
- ¹⁴ E. Ellis, *Call for inmates to be released after Covid-19 outbreak in Eastern Cape prisons* (15 April 2020), published in the Daily Maverick. Available at: <https://www.dailymaverick.co.za/article/2020-04-15-call-for-inmates-to-be-released-after-covid-19-outbreak-in-eastern-cape-prisons/>
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- ¹⁶ UNODC, WHO, UNAIDS, OHCHR, *UNODC, WHO, UNAIDS, OHCHR Joint Statement on COVID-19 in prisons and other closed settings* (2020). Available at: https://www.unaids.org/sites/default/files/20200513_PS_covid-prisons_en.pdf
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- ¹⁹ Thailand Institute of Justice, *The Bangkok Rules*. Available at: <https://www.tijbangkokrules.org/en/about-bangkok-rules>; UNODC, *The Bangkok Rules* (2015). Available at: https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf
- ²⁰ OHCHR, *United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)*. Available at: <https://www.ohchr.org/Documents/ProfessionalInterest/tokyorules.pdf>
- ²¹ African Commission on Human and Peoples' Rights, *Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa Luanda Guidelines Toolkit*. Available at: <https://www.achpr.org/presspublic/publication?id=6>
- ²² As early as March 2020, these countries included: Austria, Belgium, Canada, China, France, Germany, the Islamic Republic of Iran, Italy, the Netherlands, Pakistan, South Korea, Spain, Switzerland, Moldova, South Africa, Turkey, the United Kingdom and the United States. See: UNODC, *Position Paper COVID-19 preparedness and responses in prisons* (2020). Available at: https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Position_paper_COVID-19_in_prisons.pdf
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²⁸ Ibid.