



## JOINT STATEMENT

**Faced with the spreading of COVID-19, take urgent and immediate measures to protect the rights of detainees in Africa**

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*24 March 2020*

**To the governments of the Member States of the African Union and international human rights organisations in Africa**

While, in the past 10 days, Europe has become the new epicentre of the COVID-19 pandemic, which first affected China before spreading to the rest of the world, African countries are preparing to face an increase in the number of cases, now considered unavoidable by the WHO.

As of Friday 20 March, there were 769 cases across the continent, including 275 deaths (99 in Burkina Faso, 56 in Senegal, 6 in Egypt, 6 in Algeria, 4 in Guinea, 2 in Morocco, 2 in DRC, 1 in Sudan, 1 in Niger). A rapid increase in the curve of recorded cases is now inevitable and guidelines have been issued by governments to control the spread of the virus. This is, of course, to be acknowledged.

In all the countries overwhelmed with the new Coronavirus, the most vulnerable categories of the population are also the most at risk of the virus. In addition to people over 65 years old who are the age group at risk, socially and economically vulnerable people bear the brunt of any shortcomings in the health and social protection systems. This is particularly the case for detainees and migrants in detention or containment.

Indeed, according to the scientific community, prisons and centres for illegal immigrants represent an increased risk, not only because the virus spreads faster in a confined, often poorly ventilated and unsanitary place, but also because pre-existing medical conditions compromise the health of detainees. In fact, infectious diseases circulate in greater proportions within the prison population (S. Kinner & al., Lancet, 2020).

While it can be expected that, because of the wide disparity in medical and prison systems and infrastructures in different African countries, the levels of exposure to the health crisis are likely to vary across countries, the issue of prisons is currently too largely ignored in the African context, despite the fact that prisoners are high-risk places for transmission.

Currently, the only initiatives taken to reduce the spread of the virus in prisons are often limited to prohibiting visits by family and friends and getting rid of community activities. Such measures give rise to several observations:

- First of all, their effectiveness can be questioned. The incarceration of new defendants, extractions to the courts and communication with prison staff are all interactions with the outside world that strongly negate the impact of these policies.

- It can be a source of misunderstanding, major tensions and sometimes mutinies, as was the case in France. The extremely high prison pressure found in many African prisons (sometimes reaching thresholds of 200 to 600% occupancy rate) further increases the risk of riots.

While the signatories of this report do not in themselves dispute the need for greater control over communication between the prisoners and their relatives in order to protect them, they stress that the rights of prisoners must be guaranteed and call for alternatives to be found: communication at a distance, behind glass or by videoconference, where possible.

**Above all, however, the signatories consider that such measures are only subsidiary to the need to sustainable and immediately reduce the prison population.** The signatories therefore call on African governments to act immediately to protect the prison population and to fight structurally for the entire population by reducing prison pressure in the various countries:

They therefore recommend:

- by the means of pardons and amnesties, **the release of detainees who are nearing the end of their sentences, as well as those in the age group at risk and whose detention is no longer justified.** Iran has recently decided to empty its prisons in order to combat the pandemic (resulting in the release of tens and thousands of prisoners). In Africa, Tunisia quickly granted a presidential pardon to 1800 prisoners (leading to the effective release of 670 prisoners and granting a remission of sentence to others) and is considering further releases in the short term. This example is commended by the signatories of the report.
- In dialogue with judicial and administrative actors, take steps **to suspend the use of police custody and pre-trial detention and release, without bail, detainees prosecuted for minor offences that are punishable by sentences of less than two years' imprisonment**, and do not represent a danger to public safety.
- In consultation with the competent judicial authorities, **grant conditional release to convicted prisoners who comply with the conditions** laid down in the procedures specific to each country.

In addition to measures aimed at reducing the prison population, the signatories demand that the authorities:

- Put in place **alternatives (telephones, letter-writing etc.), to combat the isolation of prisoners** and enable them to communicate with their families and friends
- **Increase the capacity for diagnosis and medical monitoring** within prisons, as requested by the WHO and considered to be the primary method of limiting the spread of the virus; in particular, increase protective measures for prisoners with compromised immune systems, such as those with HIV or tuberculosis
- **Make systematic medical diagnosis effective upon entry into prison**, in accordance with Rule 30 of the United Nations Standard Minimum Rules for the Treatment of Prisoners.
- **Strengthen the access to justice and the monitoring of respect for fundamental rights**, through reinforcing the dialogue with NGOs and facilitating legal assistance to detainees to ensure compliance with international law, in particular Articles 5 and 16 of the African Charter on Human and Peoples' Rights and the United Nations Standard Minimum Rules for the Treatment of Prisoners.

- **Ensure social and health monitoring of released persons**, as part of the implementation of a public health policy.
- **Adequately protect prison staff** against contamination of the virus.

## Signatories

### *NGOs et national actors*

- ACAT / Benin
- ACAT / Congo Brazzaville
- ACAT / Chad
- ACAT / Ivory coast
- Alliance pour l'Universalité des Droits Fondamentaux (AUDF) / DRC
- Association des juristes de Sfax / Tunisie
- Association pour la Promotion des Libertés Fondamentales (APLFT) / Chad
- Barreau de Bujumbura / Burundi
- Barreau du Kasai Oriental / DRC
- Collectif des Associations Contre l'Impunité au Togo (CACIT)/ Togo
- Caritas Mauritanie / Mauritania
- Chapter Four /Uganda
- Commission nationale des droits de l'homme (CNDH) / Mali
- Commission nationale des droits de l'homme et des libertés fondamentales (CNDHLF) / Central African Republic
- Culture pour la Paix et la Justice (CPJ) / DRC
- Centre pour la Qualité du Droit et la Justice (CQDJ)/Burkina Faso
- Fondation Bill Clinton pour la Paix / DRC
- Fraternité des Prisons – Kongo Central / DRC
- Humanisme & Droits humains – Lubumbashi (HDH) / DRC
- Legal Aid Service Providers Network (LASPNET) / Uganda
- Lutte contre la torture / Benin
- Mouvement citoyen Cocorico / DRC
- Observatoire Marocain des Prisons / Morocco
- Public Interest Law Centre (PILC) / Chad
- Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO) / Senegal

### *NGOs et international actors*

- Avocats Sans Frontières (ASF)
- Conférence Internationale des Barreaux (CIB)
- Fédération Internationale pour les Droits Humains (FIDH)
- FIACAT
- Synergies Coopération

- Pr Ghislain Patrick Lessène, Enseignant à l'Université de Genève et Directeur exécutif du Centre d'Etudes Juridiques Africaines (CEJA)