



Honorable Commissioner Maria Teresa Manuela
Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa
African Commission on Human and Peoples' Rights

Honorable Commissioner Zainabo Sylvie Kayitesi
Special Rapporteur on the Rights of Women in Africa
African Commission on Human and Peoples' Rights

OPEN LETTER - WOMEN IN PRISON AND THE COVID-19 PANDEMIC

Dear Commissioner Maria Teresa Manuela,

Dear Commissioner Zainabo Sylvie Kayitesi,

The undersigned 19 organizations and advocates, members of The Women in Prison Network convened by the Cyrus R. Vance Center for International Justice, are writing to draw your attention to new research which has identified the severe risks women in detention throughout the African region face regarding their health, safety and basic human rights as a result of the Covid-19 pandemic. We respectfully call on your support in ensuring that this vulnerable – and often forgotten – group are not left behind in the COVID-19 response. In this letter we lay out our key concerns and recommendations.

Key concerns

Our research (see background below) shows that the response to the COVID-19 pandemic across the Global South as it relates to women in prison has generally been patchy and inconsistent. Where actions have been taken, many appear to be targeted at the prison population in general, without proper consideration as to how the responses should be tailored to address the specific needs of women prisoners. Penal Reform International has denounced “the relative silence around the unique situation for women in prison, and their children.”¹ In Nigeria, only one woman has so far benefited from early release among the 29 persons symbolically released by the Minister of Interior at the inception of the Presidential Release of Inmates to curb the spread of the Covid-19 in Correctional Centers. In Malawi, The Gambia, and Sierra Leone, no specific measures have been enacted to allow for the release of pregnant or breastfeeding women or those with children living in prison with them, despite recommendations from the World Health Organization and the UN Office of the High Commissioner for Human Rights, among others. Further, it appears that many countries across Africa are struggling to allocate the necessary resources and skills to provide an adequate response to the current crisis in detention centers, in some

¹ <https://www.penalreform.org/blog/coronavirus-and-women-in-detention-a-gender-specific/>



cases disproportionately impacting women. We outline these findings in more detailed in the attached report.

There are serious risks to the safety and health of women in prison across Africa if they continue to be left out of government's policies regarding the COVID-19 pandemic in places of detention. Women in prison have complex health needs with disproportionate rates of underlying health conditions compared to women in the community. This fact, coupled with overcrowded and unhygienic prison conditions in many corners of the globe, puts women at great risk of contracting COVID-19. High numbers of women also enter prisons pregnant or having recently given birth, as drug users and/or with serious physical and mental effects of violence and related trauma.

Recommendations

To ensure action by African Union member states to protect the rights of women in prison, we call on you within your respective mandates to:

- Publicly call on states to ensure that all COVID-19 responses relating to criminal justice and specifically the prison population adequately consider the specific needs and unique risks faced by women in prison - prior to and throughout implementation.
- Press relevant authorities to reduce overcrowding in women's prisons during the pandemic so as to slow the spread of the virus and to shield particularly vulnerable prisoners including pregnant women and those with young children. Measures to address overcrowding should include implementing early release or home detention schemes for those in pre-trial detention and for persons convicted of less serious offenses, especially if they are vulnerable, such as persons with underlying health conditions or older persons. We note that in most countries, the female prison population comprises non-violent, first-time offenders who pose little danger to society and low risks of recidivism.
- Urge member states to provide continued access to proper and adequate medical care to women in prison. This includes mental health services and maternity and neonatal care. Basic hygiene articles and access to water must also be ensured for women. Given the risks of COVID-19 in prisons as a closed setting, soap, water and disinfectant should be prioritized.

We would welcome the opportunity to discuss the possibility of a joint statement to be issued drawing on our findings and recommendations.

Our recommendations are supported by various regional instruments that protect the human rights of women in detention in Africa and provide guidance on how to address the human rights risks posed by the Covid-19 pandemic. In accordance with the African Charter on Human and Peoples' Rights ("Banjul Charter"), female prisoners are entitled to human rights and basic freedoms. The Charter also mandates the elimination of every discrimination against women and ensures women and children receive the protections stipulated in international declarations and conventions. This is also echoed in The Protocol of



the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the "Protocol"). The Guidelines on the Condition of Arrest, Police Custody, and Pre-Trial Detention in Africa (the "Guidelines") state that using special measures with certain categories is not considered an act of discrimination and recognize that vulnerable groups, including women, require special protections. The Guidelines further provide that states must undertake steps to develop legislation, procedures, policies, and practices that protect the rights, special status, and distinct needs of women and girls who are subject to arrest, police custody, or pre-trial detention. The Kampala Declaration and Plan of Action on Prison Conditions in Africa (the "Declaration") emphasizes the need for special treatment of vulnerable groups, including women, mothers, and babies. The Declaration recommends procedures that meet the specific needs of these groups and ensure their adequate treatment during an arrest, trial and detention. The newly adopted 2019 Guidelines on the Right to Water in Africa clearly stipulate that "[s]ufficient water shall be provided daily, together with sufficient soap and clothes detergent to ensure personal hygiene, clean bedding and clothes."

Furthermore, the United Nations Rules on the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) outline key protections including: preference for non-custodial alternatives to imprisonment, especially for women with young children, pregnant women and breastfeeding/nursing mothers; gender-sensitive healthcare; hygiene articles for free; and the facilitation of contact with the outside world.

Background to research

In 2017, the Cyrus R. Vance Center for International Justice's² Human Rights and Access to Justice Program launched The **Women in Prison Project** to promote global collaboration on improving conditions of women's imprisonment. In 2018, the Vance Center convened the first international conference of women prisoners' advocates in Bogota Colombia, co-sponsored by Penal Reform International. Out of this conference the first ever global network of advocates for women prisoners was established: the **Women in Prison Network**. The Network includes 45 individual advocates and 34 organizations from a total of 21 countries representing every continent, many of which are signing this letter. The Network is a safe space for advocates to share information and best practices, seek collaborations, and build capacity for improved monitoring and reporting of conditions in women's prisons worldwide.³

² The Vance Center for International Justice is a non-profit program of the New York City Bar Association. The Vance Center's Human Rights and Access to Justice Program protects individuals from discrimination, violence, injustice, and corruption and supports international human rights bodies committed to such protection.

³ Last year, the Vance Center launched a report on "Women in Prison: Africa Regional Initiative". Developed with members of the Women in Prison network in Nigeria, The Gambia, Malawi, Kenya and Tanzania, the report surveys what is currently known about women's incarceration in these five African countries, both in law and in practice. It provides a detailed analysis of these countries' compliance with domestic, regional, and international standards on women incarceration, including the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ("Bangkok Rules"). The Vance Center hosted a panel discussion at the Africa NGO Forum in Banjul on "Women in Prison in Africa: What do we know?" to launch the report and engage in a discussion on what currently is known, and remains to be learned, about women's incarceration across sub-Saharan Africa and how NGOs can work together to address these gaps. The Vance Center is also conducting a joint research project in Sierra Leone on women's incarceration, along with the NGO Advocaid of Sierra Leone, which assesses the causes and consequences of women's imprisonment in that country and serves as a blueprint for similar research that other organizations can conduct in their respective countries.



In response to the Covid-19 pandemic, the Vance Center mobilized its Women in Prison Network to assess government responses to the crisis in detention centers for women in 17 Global South countries including Kenya, Malawi, Nigeria, Sierra Leone and The Gambia in Africa.⁴ We conducted a survey on how governments in these countries have responded to the COVID-19 pandemic in their policies and practices regarding women's incarceration. The survey focused on six key areas: healthcare, prison protocols and rules, children in prison with their mothers, rehabilitation and release, the criminal justice system, and prison staff.

We remain at your disposal to discuss how to pursue the protection of human rights for women in prison across Africa, and welcome the opportunity to brief you further on the situation in specific countries through the African-based advocates of the Women in Prison network.

Respectfully,

- AdvocAid, Sierra Leone
 - Centre for Human Rights Education Advice and Assistance, Malawi
 - Clean Start, Kenya
 - Faraja Foundation, Kenya
 - Institute for Human Rights and Development in Africa, The Gambia
 - Legal and Human Rights Center, Tanzania
 - PRAWA, Nigeria
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- A Little Piece of Light, United States
 - Associação Elas Existem - Mulheres Encarceradas, Brazil
 - Fundación CONSTRUIR, Bolivia
 - The International Drug Policy Consortium
 - Kathy Boudin, Co-Director of The Center for Justice at Columbia University, United States
 - Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados, Brazil
 - Movimiento Cárceles al Desnudo, Colombia
 - Observatorio Venezolano de Prisiones, Venezuela
 - Penal Reform International, United Kingdom
 - Silvia Edith Martinez, Expert on Penitentiary Issues, Argentina
 - Sisters Inside, Australia
 - Washington Office on Latin America (WOLA), United States

⁴ Other countries include Argentina, Bolivia, Brazil, Colombia, Indonesia, Kazakhstan, Kyrgyzstan, Mexico, Pakistan, Philippines, Thailand, and Venezuela.