

ACHPR/Res.466 (LXVII) 2020: Resolution on Prisons and Conditions of Detention in Africa.

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 67th Ordinary Session held virtually, from 13 November to 03 December 2020;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Reaffirming the importance of observing the objectives and principles of the African Charter in particular Article 6, on the necessity to promote and protect the rights of persons deprived of their liberty;

Recalling the Kampala Declaration on Prison Conditions in Africa of 1996; The Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa of 2002 (The Robben Island Guidelines), the Ouagadougou Declaration and Plan of Action on Accelerating Prison and Penal Reform in Africa of 2003; the Guidelines on Conditions of Arrest, Police Custody and Pre-trial Detention in Africa of 2014; and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) of 2015;

Further Recalling Resolution ACHPR/Res.19 (XVII) 95 on Prisons in Africa; Resolution ACHPR/Res.64(XXXIV)03 adopting the Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa; Resolution ACHPR/Res. 449 (LXVI) 2020 on Human and Peoples' Rights as Central Pillar of Successful Response to COVID-19 and Recovery from its Socio-political Impacts; Press Statement on the Corona Virus Crisis of 28 February 2020; Press Statement on Human Rights Based Effective Response to the novel COVID-19 Virus in Africa of 24 March 2020; Press Statement by the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa on the Release of Prisoners during the COVID-19 Pandemic of 17 April 2020; and various international instruments relating to the promotion of the rights of persons deprived of their liberty and penal reform in particular;

Concerned that the conditions of prisons and other places of detention in many African countries are characterized by severe inadequacies including, high rates of overcrowding, poor medical, medication and sanitation conditions; inadequate recreational, vocational and rehabilitation programmes, high percentage of persons awaiting trial, among others;

Further concerned that due to the COVID 19 Pandemic, persons deprived of their liberty are at greater risk of contracting the Corona virus, with a limited possibility of containing it, mainly because of the

overcrowded prisons and places of detention in many African states, making social distancing and self-isolation in such conditions almost impossible, in addition to inadequate hygiene and health services, among others;

Noting the immediate emergency measures adopted by some African States, such as the release of prisoners during the COVID-19 pandemic in order to reduce the spread of the Corona virus, by way of decongesting prisons; the suspension of all public court hearings, the suspension of all prison visits, taking health and security measures to prevent or contain the spread of the Corona virus among prisoners, including prison sterilization and disinfection operations;

Appreciating that these actions by State Parties are an indication of their commitment to the human rights ideals set out in the African Charter and other regional and international instruments, while adhering to and implementing the precautionary measures stipulated by the World Health Organization in an attempt to combat the COVID 19 pandemic;

Considering that women prisoners, pregnant and/or those with children, at this time of pandemic, are twice affected because it has been observed that in most countries, the response and containment measures taken in the institutions have further worsened their condition by not taking into account their specific needs;

Mindful of the obligation of States parties to the African Charter to improve prison conditions and protect the rights of persons deprived of their liberty in Africa;

The African Commission calls on State Parties to the African Charter to:

1. Emulate the measures taken by other States to opt for appropriate emergency measures to reduce overcrowding in prisons and other places of detention;
2. Release convicted prisoners and those awaiting trial for petty offences; those who have been rehabilitated and pose limited risk to society; the elderly, pregnant women and those with children; those with underlying health conditions, prisoners of conscience, human rights defenders and undocumented migrant detainees, in order to reduce overcrowding in prisons and curb the spread of the Corona virus;
3. Take other necessary measures in prisons and other places of detention to:
 - i. ensure the human rights of persons deprived of their liberty are upheld,

ii. provide adequate food, health and rehabilitation facilities, sanitation and quarantine measures to guarantee decent living and health conditions for all detainees;

iii. ensure that any restrictions imposed on detainees should be non-discriminatory, but rather necessary, proportionate, time-limited and transparent;

iv. ensure that women prisoners, regardless of their condition, receive the appropriate care and are provided with the necessary conditions to meet their specific needs;

v. ensure measures to prevent riot and restore order and security within prisons and detention centres; and

4. Respect the rights of persons deprived of their liberty in accordance with Article 6 of the African Charter on Human and Peoples' Rights, while adhering to and complying with the United Nations Standard Minimum Rules for the Treatment of Prisons (the Nelson Mandela Rules); the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (the Luanda Guidelines); the World Health Organization's Interim Guidelines on the Preparation, Prevention and Control of COVID-19 for prisons and other places of detention as well as, other regional and international instruments for the protection of the human rights of prisoners.

Done virtually on 03 December 2020