

The Mandela Rules Between the lack of resources and the danger of Covid-19

Case study: African Horn Region

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Preamble

The human right to enjoy a dignified life is not only restricted to public forms of life, including the human rights related to it, but it should also focus on the extent to which this decent life is provided within prisons and detention centers, a right that is barely mentioned in the constitutions and laws of some countries.

In conjunction with the celebrations of the Nelson Mandela International Day, which the world celebrates on July 18 annually, and in light of the continuing outbreak of the Covid-19 pandemic, Maat for Peace, Development and Human Rights issues a study entitled **“The Nelson Mandela Standard Rules: Between Lack of Resources & the Threat of COVID-19.”**

The present study analytically approaches the UN Standard Minimum Rules for the Treatment of Prisoners (SMRs), or what is known as the Nelson Mandela Rules. The study focuses on two main axes, the first shows the international rules stipulated for dealing with prisoners, whereas the second handles those rules from an analytical point of view with application on a number of East African countries. The study seeks to determine the extent of these countries commitment to these rules, as well as to identify the setbacks and developments in five major countries, namely; Somalia, Djibouti, South Sudan, Eritrea and Ethiopia. The study concludes with a set of recommendations submitted by Maat for Peace, Development and Human Rights, for stakeholders and the governments of those countries, in the hope of saving the humanity lost in most of the African continent prisons.

Mandela's Standard Rules in Light of the Global Health Crisis

1. Somalia

Focusing attention on detention systems has become an important issue, especially in light of the fragile human rights and political environment

in which Somalia has lived since approximately 1991. **In Somalia**, the global health crisis of our time, the Covid-19 pandemic, has spread in parallel with a serious human rights crisis in prisons and detention centers, both in terms of implementing security and order, or in terms of providing the necessary resources for those centers in a bid to curb the spread of the Covid-19.¹ Besides, in detention centers, there are various examples of structural and organizational factors that can favor the spread of diseases in general and the COVID-19 virus in particular, such as overcrowding, shared sanitation facilities, poor hygiene, limited ventilation and access to common areas. These factors present perfect conditions for an already highly infectious disease to thrive should one of the detainees or prison staff become infected.^{2 3} There are an estimated 1,200 in the central prison in Mogadishu, approximately 2,000 were held in Somaliland and 500 in one of the prisons of Puntland. In addition "observers estimated that thousands were incarcerated" by Al-Shabaab in the regions under its control.⁴

2. Djibouti:

Prisons in Djibouti exceed their original planned capacity by almost double. Medical services and inmates living conditions are poor, prisons suffer from poor lighting, inadequate sanitation, and other deficient environmental conditions. Besides, potable water and ventilation are limited. Due to space constraints, there are no formal system to segregate pretrial detainees from convicted prisoners, nor were violent offenders always separated from nonviolent offenders. None of the Mandela rules related to separating pre-trial detainees from convicted prisoners has been implemented in Djibouti, as there are a number of central prisons such as

¹ ICRC blogs Somalia, *Somalia: COVID-19 in places of detention*, 24 April 2020, <https://bit.ly/3hBNcyX>

² Partners for Transparency, *Report about the Human Rights Challenges Faced by Somalia in Response to the COVID-19 pandemic*

³ global detention project, SOMALIA, 12 March 2021, <https://bit.ly/3yUDCwX>

⁴ World Prison Brief, at: <https://2u.pw/FnBRa>

Gabode prison in the capital, in addition to other local prisons such as the detention cells and arrest of those without trial, including a clear violation of their basic rights, especially since they are still under investigation, but they are treated as detainees or convicted prisoners.⁵

3. South Sudan

Undoubtedly, civil war and the divisive tribalism that has marked this emerging state for over nine years, have clearly affected the prison and detention management system, which has always been the worst and one of the most ruthless and threatening regimes due to the civil war.

The crisis of overcrowding and space constraints is one of the most alarming challenges facing prisons in the state of South Sudan. For example, the total prison population, including pretrial detainees, is more than 7,000 prisoners, which is a clear manifestation of overcrowding inside prisons. Besides, Rumbek Central Prison houses some 600 prisoners who live in overcrowded cells with virtually no access to basic health care, sanitation, as well as adequate food and nutrition.⁶

4. Ethiopia

Ethiopia has recently witnessed a state of political and security instability, triggered chiefly by ethnic wars that hit all parts of the country, as well as forced migrations and the measures adopted to complete the Grand Ethiopian Renaissance Dam (GERD) among other development projects in the Benishangul-Gumuz region. Of course, these escalating disturbances in all respects have exacerbated repression and detention cases in a country where basic standards of human rights are not met, not to mention the mismanagement of state resources, including prison and detention management. Prisons in Ethiopia are severely overcrowded, and are often

⁵ us The Department of State, 2020 Country Reports on Human Rights Practices: Djibouti, <https://bit.ly/3eIMGTD>

⁶ News, Overcrowded South Sudan prisons lack basic health care, sanitation and nutrition, at: <https://2u.pw/Tc9Z9>

notorious and life-threatening.⁷ Prison cells are often small and cramped. The prison population rate per 100,000 national population is reported to be 99 based on the estimated national population of 111.11 million in March 2020. So, the total prison population (including pretrial detainees/ remand) is estimated at 110,000 in March 2020.⁸

In addition to the severe overcrowding crisis, the centers lack the basic rules included in the Mandela Guidelines dealing with conditions of detention cells. Ethiopian local organizations reported that it was common for cells to have small windows that allow only a little light into estimated 430-square-foot cells, one of which may hold as many as 40 cellmates.

5. Eritrea

Since the era of Italian colonialism until now, Eritrean prisons are rife with thousands of detainees, which are often held without lowest respect for human rights and human dignity. In conjunction with the spread of the Covid-19, the basic rights of prisoners are still violated, especially the right to health care and personal hygiene. For example, in **Adi Abeyito** prison, located north of the capital, Asmara, currently houses about 2,500 people in a space designed for only 800 people, which definitely affects the levels of personal hygiene as detainees are allowed to shower and wash their clothes only twice a week. However, detainees in the other three facilities are rarely allowed to shower or wash their clothes.⁹

Recommendations

Recommendations for the Somali government:

⁷ US Department of State, 2020 Country Reports on Human Rights Practices: Ethiopia, Mars 2021, at: <https://2u.pw/M39w1>

⁸ World Brief Prison, at: <https://2u.pw/SRh1Q>

⁹ Amnesty International, Eritrea: Detainees in overcrowded and unsanitary conditions defenceless against COVID-19. 21 may 2020.link: <https://bit.ly/3kRRG6E>

The Somali government and officials in the administration of prisons and detention centers should work on developing a strategic plan to stop filling cells beyond their capacity in accordance with the guidelines to prevent the outbreak of the Coronavirus, by establishing new detention centers equipped in accordance with the Mandela Rules, including providing adequate lighting and necessary ventilation. Maat recommends the Somali government to exert more efforts to protect prisoners and detainees in areas under the control of armed groups, in which prisoners face the harshest punishments, which often lead to death.

Recommendations for the Djiboutian government:

Maat is deeply concerned about the crisis of overcrowding inside prisons, and recommends the Djiboutian government to form a committee to monitor the conditions of prisoners in light of the outbreak of the Coronavirus, and the extent of the commitment of detention center officials to implement the guidelines for the prevention of the virus.

Recommendations for the government of South Sudan:

In absence of an orderly management of prisons in South Sudan due to the newness of the state, the government of South Sudan should establish bilateral partnerships with UN and continental bodies to work with prison administration officials in order to design a strong system for detention facilities in general that protects basic rights of prisoners, topped by the right to receive appropriate health care, and the right to humane treatment.

Recommendations to the Ethiopian government:

Maat is following with deep concern the severe deterioration in the human rights environment in Ethiopia recently, and recommends the need to enact legislation against the wave of mass arrests in Ethiopia, especially those related to official and unofficial detention centers, provided that it is

appropriate for all crimes and applicable on all individual circumstances of each crime, especially in light of the Coronavirus pandemic.

Recommendations for the Eritrean government:

In light of the absolute non-compliance by the Eritrean authorities with the preventive measures associated with the Covid-19 pandemic in prisons, a body responsible for monitoring officials inside prisons and the extent of their commitment to the implementation of health prevention measures in accordance with the Mandela rules, should be appointed along with the appropriate and reasonable provision of adequate food, water and care medical detainees.