



# African Policing Civilian Oversight Forum

**NGO observer status number 372**

**81<sup>st</sup> Ordinary Session of the African Commission on Human and Peoples' Rights**

**17 October – 6 November 2024, Kololi, The Gambia**

**Item 3: Human Rights Situation in Africa**

Honourable Chairperson and Commissioners,

The African Policing Civilian Oversight Forum (APCOF) welcomes the opportunity to make a statement on the human rights situation in Africa. Our statement focuses on the issue of pre-trial detention, and the need for African States to renew their commitment to implementing the Commission's Luanda Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa.

Prisons across Africa experience severe overcrowding. This overcrowding is driven by a combination of factors, including high rates of pre-trial detention, and financial barriers that prevent some detainees from paying fines or bail.<sup>i</sup>

The impact of pretrial detention on prison overcrowding can be illustrated by analysing available data on the current prison occupancy levels and the percentage of pretrial or remand detainees as a proportion of the total prison population (see **annexure 1** for full list). For example:<sup>ii</sup>

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- In Tunisia, the prisons are at 126% occupancy, with 54.9% of the prison population being pre-trial detainees.
- In South Africa, occupancy is 146%, with 35.6% of the prison population being pre-trial detainees.
- In Kenya, prisons are at 176% occupancy, and 41% of the total population of detainees are pre-trial.
- In Senegal, occupancy levels are 129%, with 53.8% of the prison population being pre-trial detainees.
- In the Democratic Republic of the Congo, prisons are at 322% occupancy, approximately 70% of detainees being pre-trial.

As the Commission has recognised in the introduction and preamble to the Luanda Guidelines, prison overcrowding leads to severe human rights violations, including inadequate access to basic necessities like food, water, and healthcare, as well as unsafe and unsanitary living conditions. The Commission has also observed that overcrowded prisons often result in heightened violence, torture and other abuse, and a lack of rehabilitation opportunities, undermining the dignity of detainees. It also hampers the ability to ensure fair and timely trials, contributing to prolonged pretrial detention, and undermining access to justice.

The data presented, and the known impacts of overcrowding and prolonged pretrial detention, highlight the urgent need for reforms aimed at reducing pre-trial detention and improving alternatives to detention. The Luanda Guidelines, which were adopted in response to widespread abuse, overcrowding and inhuman conditions in prisons across Africa, provide a blueprint for this reform. It is therefore disappointing that in the 10 years since their adoption, prison overcrowding and high rates of pretrial detention continue to be an overlooked human rights problem.

APCOF has consistently observed an over-reliance on arrest by police who are trained, managed and rewarded for maintaining public order rather than serving public safety. A lack of investment in alternatives to pre-trial detention, the criminalisation of poverty and status, and pressure on the judiciary to maintain a tough on crime stance, also leads to courts relying on pretrial detention as a means of demonstrating effectiveness in crime control. These approaches do not make our communities safer, nor are they an effective way of addressing serious crime. Instead, they overwhelm already strained criminal justice systems, and violate the human rights of individuals held in overcrowded detention facilities.

On the occasion of the 10<sup>th</sup> anniversary of the Luanda Guidelines, we urge the Commission to renew its focus on promoting and protection the human rights of people during the criminal justice process, focusing specifically on reducing the unnecessary use of arrest, police custody and pretrial detention. In particular, we encourage the Commission to remind African States of their obligations under the African Charter, as interpreted by the Luanda Guidelines, to:

- Reduce the number of unnecessary and arbitrary arrests, and to protect persons who are under arrest from human rights abuses in police custody.
- Ensure that police custody is an exceptional measure of last resort.
- Establish and implement effective alternatives to pretrial detention, and ensure the regular review of case files for individuals who are subject to remand orders.
- Promote the regular and independent monitoring of police cells and prisons, and to ensure that prompt access to legal assistance services are available to all persons in conflict with the law.
- Provide regular, accurate and disaggregated data to the African Commission on the number of persons held in pretrial detention (as a proportion of the prison population), and the prison occupancy levels.

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## Annexure 1

All data from: <https://www.prisonstudies.org/map/africa>

<b>Country</b>	<b>Pretrial detainees (percentage of prison population)</b>	<b>Prison occupancy level (based on official capacity)</b>
Algeria	c.19% (September 2021)	c.119% (September 2021)
Angola	48.7% (June 2023)	c.122.5% (June 2023)
Benin	c.55% (December 2023)	c.213.5% (2023)
Botswana	22.5% (May 2021)	86% (July 2020)
Burkina Faso	29.9% (December 2022)	168.3% (December 2022)
Burundi	52.8% (June 2024)	320.9% (June 2024)
Cameroon	58% (September 2021)	164.8% (June 2022)
Cabo Verde	31.7% (September 2018)	109.4% (August 2017)
Central African Republic	65.3% (December 2023)	190.5% (December 2023)
Chad	63.4% (December 2011)	232.3% (December 2011)
Comoros	43.6% (2023)	161.7% (September 2019 – occupancy level in Moroni prison)
(Republic of) Congo	c.60% (September 2014)	616.9% (2019 – occupancy level in the two main prisons)
Cote d'Ivoire	33.2% (April 2023)	269% (September 2023)
Democratic Republic of Congo	c.70% (December 2022)	322.8% (October 2021 – occupancy of the 'priority prisons')
Djibouti	35.8% (2018)	171.5% (2016 – occupancy level in Gabode prison)
Egypt	33.3% (2022)	No official figures
Equatorial Guinea	No official figures	No official figures
Eritrea	No official figures	No official figures
Eswatini	24.5% (September 2022)	120% (September 2022)
Ethiopia	14.9% (2011 – 2012)	No official figures
Federal Republic of Somalia	No official figures	No official figures
Gabon	No official figures	No official figures
Gambia	55.6% (April 2021)	172.5% (November 2014)
Ghana	10.4% (August 2024)	140.8% (August 2024)
(Republic of) Guinea	54.2% (October 2019)	171.4% (October 2019)
Guinea Bissau	67.9% (February 2017)	102.2% (December 2013 – occupancy level in the two prisons)
Kenya	41% (December 2022)	176.5% (December 2023)

Lesotho	19.5% (August 2014)	70.6% (August 2014)
Liberia	71.2% (April 2023)	222.1% (October 2019)
Libya	c.29% (May 2023 – of those facilities under Ministry of Justice)	141.6% (June 2007)
Madagascar	c.47% (October 2023)	277.5% (October 2023)
Malawi	c.17.6% (December 2020)	233.8% (October 2022)
Mali	69% (September 2020)	223.3% (mid-2009)
Mauritania	c.50% (August 2022)	101.8% (April 2018)
Mauritius	48.4% (July 2024)	116.9% (August 2011)
Morocco	37.6% (December 2023)	158.8% (December 2023)
Mozambique	28.1% (December 2023)	245.8% (December 2023)
Namibia	54% (2021/2022)	75.4% (February 2022)
Niger	61.8% (December 2021)	97.4% (December 2021)
Nigeria	68.2% (August 2024)	136.7% (July 2021)
Rwanda	14% (August 2023)	138.1% (July 2022)
Sao Tome e Principe	c.20% (2020)	c.333.3% (2023)
Senegal	53.8% (September 2023)	129.7% (March 2018)
Seychelles	31.6% (June 2024)	53.8% (2016)
Sierra Leone	51.1% (February 2024)	178.5% (February 2024)
South Africa	35.6% (March 2023)	146% (March 2023)
South Sudan	28.9% (September 2015)	No official data – Juba prison was constructed for 400 prisoners but held 1,317 in September 2015
Sudan	20.4% (2013)	255.3% (mid-2009)
Tanzania	c.50% (June 2021)	c.109% (April 2020)
Togo	60% (August 2021)	183.5% (August 2021)
Tunisia	54.9% (2021)	126.4% (2021)
Uganda	46.2% (April 2024)	366.5% (April 2024)
Zambia	20.1% (January 2024)	238.2% (January 2024)
Zimbabwe	22.2% (March 2024)	130.1% (August 2022)

<sup>i</sup> See, for example, Penal Reform International, ‘Global Prison Trends 2024’, available at <https://www.penalreform.org/global-prison-trends-2024/>; and Prison Insider, ‘South Africa’, available at <https://www.prison-insider.com/en/countryprofile/afrique-du-sud-2023>.

<sup>ii</sup> All statistics taken from World Prison Brief, current at 25 September 2024: <https://www.prisonstudies.org/world-prison-brief-data>