

## COALITION TO DECRIMINALISE AND DECLASSIFY PETTY OFFENCES IN UGANDA(CODPO)

C/O Human Rights Awareness and Promotion Forum – Uganda (HRAPF)

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The Attorney General of the Republic of Uganda,  
Plot 5, Bauman House, Parliamentary Avenue,  
P.O. Box 7183,  
Kampala- Uganda.



30<sup>th</sup> April 2020



RE: SUGGESTIONS FOR FURTHER DECONGESTION OF PRISONS IN LIGHT OF COVID-19

We write to you under the umbrella of the Coalition to Decriminalise and Declassify Petty Offences in Uganda, a loose Coalition of 28 Civil Society Organisations as well working to ensure the decriminalisation of petty offences in Uganda.

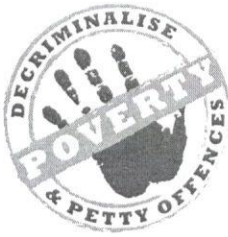
We applaud the seriousness with which government is treating the COVID-19 pandemic. We thank the President of the Republic of Uganda for exercising his constitutional mandate conferred upon him by Article 121 of the Constitution, upon which 833 prisoners benefitted from the presidential prerogative of mercy. We further commend efforts by the Uganda Prisons Service (UPS) to decongest prisons in order to curb the spread of the corona virus, and take particular note of the fact that they took the initiative of presenting to you a request for recommendation of grant of a Presidential pardon to about 2000 prisoners, including petty offenders, as indicated by the Commissioner General of Prisons during a media interview on the 6<sup>th</sup> of April of 2020.

While we commend efforts by the President and the UPS to decongest prisons, 833 out of the 2000 prisoners requested to be released has a negligible effect on addressing the congestion in prisons. According to the World Prison Brief data, Uganda's prisons are overcrowded, with an occupancy level that is at 319%. Data also indicates that 49.8% of prisoners in Uganda are on remand, which is a major contributing factor to the overcrowding in the country's prisons. Pressure on the prison population has recently increased dramatically, with over 970 persons arrested in relation to flouting the COVID-19 presidential directives on social distancing, curfew and other restrictions on movement. This comes at a time when courts are unable to function at full capacity, leaving the detention facilities with an undue burden of holding individuals in the absence of due process.

On 27<sup>th</sup> March 2020, the Office of the High Commissioner for Human Rights (OHCHR in conjunction with the World Health Organisation (WHO) issued guidance to governments of UN member states on protection of health rights of persons deprived of their liberty in response to the COVID-19 pandemic. The guidance paper highlights the risk of rapid transmission of the corona virus in detention facilities due to the high concentration of people in confined spaces, as well as the limited hygiene amenities in such facilities. The OHCHR and WHO have thus urged governments to take immediate steps to address overcrowding in prisons by releasing inmates, including children, persons with underlying health conditions, persons with low risk profiles, those who have committed minor and petty offences, as well as those with imminent release dates. Furthermore, on 25<sup>th</sup>, March 2020, the UN High Commissioner for Human Rights expressed concern about the criminalisation approach being taken by some countries in order to enforce social distancing measures, indicating that detention of persons that flout them is likely to exacerbate the situation in prisons and other detention facilities, and do little to curb the spread of the disease.

In light of this, we urge you to:

- 1) Further guide the Advisory Committee on the Prerogative of Mercy to urgently consider, in totality, the request of the Uganda Prison Services to have the following categories of prisoners pardoned by the President and ultimately released:



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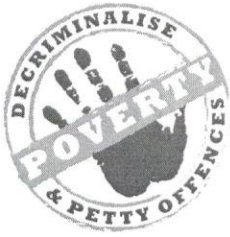
- Those who have served two thirds of their sentences and are not capital offenders
  - Breast feeding mothers who have served half of their sentences and are not capital offenders
  - Those who are above the age of 65, and have served half of their sentences.
- 2) Engage the Uganda Prison Services to further decongest the prisons, by requesting them to submit an additional list of the following categories of inmates for consideration by the Advisory Committee on the Prerogative of Mercy:
- Inmates that have been convicted of petty offences and misdemeanors and sentenced to imprisonment of less than three (3) years.
  - Inmates with pre-existing health conditions who have not been convicted of violent crimes
- 3) Advise the President and cabinet to allocate part of the funds in the supplementary budget that is meant to fight COVID-19 to the procurement of bus services to transport prisoners that are pardoned, as well as those that have completed their sentences, to their areas of residence.
- 4) Advise the President to issue further directives to the law enforcement officers on the use of alternative human rights-based approaches to enforcing the social distancing directives, as opposed to arrest and detention.
- 5) Advise the president on the inclusion of lawyers providing legal aid services, judicial officers and court officials among essential workers that are exempted from the restriction on movement by vehicle so as the secure bail and unconditional release for the ever-increasing number of detainees, and ultimately reduce the population pressure in detention facilities. This will also ensure that the inalienable right to a fair hearing, which includes the right to a speedy trial and access to legal representation, is respected even amid the COVID-19 crisis.
- 6) Advise the President to issue guidance to the Uganda Prisons Service to provide alternative means of communication between inmates and their legal representatives and relatives in light of the suspension of physical visits to prisons so as to enable them prepare adequately for their trials.

Sincerely,

  
Ms. Flavia Zalwango  
Coordinator

*For and on Behalf of the following members of the Coalition to Decriminalise and Declassify Petty Offences in Uganda*

1. Action Group for Health, Human Rights and HIV/AIDS (AGHA)
2. Akina Mama wa Afrika
3. Alliance of Women advocating for change
4. Centre for Health Human Rights and Development (CEHURD )
5. Chapter Four Uganda
6. CivSource Africa



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7. Fema Alliance
  8. Femme Forte Uganda
  9. Her Internet
  10. Human Rights Awareness and Promotion Forum
  11. Ice Breakers Uganda
  12. Justice Defenders
  13. Lady Mermaid Bureau
  14. Legal aid service providers network
  15. Network of Key population services organization (UNESO)
  16. SIHA Network
  17. The TAALA foundation
  18. Trans Network Uganda
  19. Uganda Harm Reduction Network
  20. Uganda Health and Science Press Association (UHSPA Uganda)
  21. Uganda Human Rights Network Uganda
  22. Women's Organization Network for Human Rights Advocacy (WONETHA)
  23. Equal Opportunities commission
  24. Rella Women's Foundation
  25. Initiative for Social Economic Cultural Rights
  26. Ubuntu Law and Justice Centre
  27. KITS Advocates

Cc : Uganda Human Rights Commission (UHRC)

Cc: Uganda Prisons Service (UPS)