

**Submission to the
United Nations Special Rapporteur on Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment**

**Practical Measures to Reduce and Prevent
Prison Overcrowding**

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DIGNITY 

DANISH INSTITUTE AGAINST TORTURE

About DIGNITY

DIGNITY is an international human rights and development organization. We prevent torture and violence, rehabilitate traumatized victims, and support local partner organisations in documenting serious human rights violations so that perpetrators are held accountable. Founded in 1982, DIGNITY is one of the world's first anti-torture NGOs and specialized treatment centres for torture survivors. DIGNITY is headquartered in Copenhagen and has active partnerships with more than 30 local and international NGOs and research institutions in more than 20 countries around the world.

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Preliminary remarks

1. Prison overcrowding is a widespread global problem, with around 60% of prison systems for which data are available operating above their official capacity,¹ and it is one of the most widespread drivers of conditions amounting to cruel, inhuman or degrading treatment. Largely the product of decisions taken throughout the criminal justice process—from criminalisation and pre-trial detention through to sentencing and release—addressing it sustainably means taking a systemic approach. Put simply, prison overcrowding cannot be solved by building more prisons. States need to manage the flow of people into, through and out of the criminal justice system, with imprisonment used as a measure of last resort. Sustainable reductions require coordinated changes to legislation, prosecution, sentencing, pre-trial detention, community sanctions, release arrangements and rehabilitation. The most important measures include²:
 - *Reduce the use of pre-trial detention*: Remand should be exceptional and based on an individual assessment of risks such as absconding, reoffending or interference with justice. Courts should make greater use of alternatives including bail, home arrest, reporting requirements and restrictions on travel. Pre-trial detention should also be subject to statutory limits and regular review.
 - *Use non-custodial sanctions instead of short prison sentences*: Community service, suspended sentences, treatment orders, electronic monitoring, victim compensation and other community-based sanctions can replace imprisonment in appropriate cases. Importantly, alternatives must genuinely replace custody, rather than expand the number of people subject to criminal-justice controls (“net widening”).
 - *Reform criminal law and sentencing policy*: Governments should review whether all criminalised conduct needs to result in imprisonment. Options include decriminalising appropriate offences, replacing imprisonment with administrative or community sanctions, reducing sentence lengths, using diversion and restorative justice, and avoiding excessive reliance on mandatory

¹ Global prison population and trends A focus on rehabilitation, https://www.unodc.org/documents/data-and-analysis/briefs/Prison_brief_2024.pdf.

² Council of Europe, Committee of Ministers, CM(2016)121-add3 - European Committee on Crime Problems (CDPC) - d. White paper on prison overcrowding [1266 meeting], [CM\(2016\)121-add3](#); see also Council of Europe, Committee of Ministers, Recommendation no R(99)22 concerning prison overcrowding and prison population inflation, <https://rm.coe.int/168070c8ad>.

prison sentences or mandatory minimums. Sentences should be individualised and proportionate to the offence and the risks involved.

- *Increase appropriate early and conditional release:* Clear, predictable early-release and parole systems reduce unnecessary time in prison while supporting reintegration. Prisoners should know the eligibility criteria from the beginning of their sentence, and release should be accompanied where necessary by supervision, treatment, education, employment support and other reintegration measures.
 - *Reduce reoffending through rehabilitation and reintegration:* Reducing recidivism reduces future prison populations. Preparation for release, substance-abuse programmes, education and employment skills, family support, supervision combined with practical assistance, and strong probation/community services are essential. The immediate post-release period deserves particular attention.
 - *Treat health and social problems outside prison where appropriate:* People whose mental-health conditions are incompatible with imprisonment should receive treatment in appropriate institutions. More broadly, social, administrative and healthcare interventions may address underlying problems more effectively than criminal sanctions for some categories of offending.
 - *Manage capacity — but do not treat construction as the primary solution:* States should establish and respect maximum prison capacities based on international standards and maintain reliable, shared data on occupancy, sentencing and probation. New or renovated prisons may be necessary to replace inadequate facilities, but increasing capacity without reducing excessive use of imprisonment is unlikely to provide a lasting solution.
 - *Adopt a whole-system national strategy:* Overcrowding is a criminal-justice-system problem, not merely a prison-management problem. Legislators, ministries, prosecutors, judges, prison and probation services should develop a long-term national strategy with shared data, objectives and accountability. Independent prison monitoring and transparent communication with the public should support implementation.
2. This submission draws on DIGNITY’s work on torture prevention and its partnerships with justice-sector institutions, notably in Jordan and Morocco, complemented by comparative examples from Europe, the Middle East and North Africa, and Asia. It also incorporates selected country examples from the monitoring practice of the European Committee for the Prevention of Torture (CPT) to illustrative recurrent challenges and practical responses. In line with the Special Rapporteur’s call for input, the submission focuses on what can be done in practice, and gives equal weight to reforms that have

stalled, been circumvented or produced unintended consequences. It is organised according to the eight questions set out in the call for input.

1. Measures that have successfully reduced prison populations

3. DIGNITY draws the Special Rapporteur's attention to three sets of experience, each discussed in more detail below. In **Jordan**, amendments to the Code of Criminal Procedure regulating the use of pre-trial detention and making it a measure of last resort have been accompanied by a sustained fall in the share of remand prisoners in the prison population (see section 2). In **Morocco**, the revival of early conditional release and the introduction of automatic sentence reduction under the Code of Criminal Procedure have produced rapid and measurable reductions in the prison population (see section 3). Finally, the emergency measures adopted by States during the **COVID-19 pandemic** demonstrated that substantial reductions can be achieved quickly when there is political will to do so.

Lessons from the COVID-19 pandemic

4. The DIGNITY guidance document 'Reducing overcrowding in pre-trial detention and prison in the context of COVID-19 – Increasing the use of noncustodial measures'³ showed that the COVID-19 pandemic presented a historic opportunity to combat chronic prison overcrowding. Before the pandemic, over 124 states reported prison overcrowding. COVID-19 then made physical distancing, adequate hygiene and infection control extremely difficult or impossible in overcrowded facilities, while outbreaks in prisons also threatened staff, health systems and the wider community.
5. The crisis created both an urgent necessity and political impetus to reduce prison populations rapidly. DIGNITY identified two principal levers: reduce the number of people entering detention and prison, particularly through alternatives to pre-trial detention and non-custodial sentences; and increase the number leaving prison, through early or conditional release, temporary or compassionate release, pardons/amnesties and electronic monitoring.
6. Importantly, COVID-19 demonstrated that such measures could be implemented quickly and at substantial scale. Governments were compelled to reassess whether particular people genuinely needed to be incarcerated and to use mechanisms that had often been underused before the pandemic. The Guidance points to the many measures taken by states, including alternatives to pre-trial detention, suspended

³ T. Rytter, K. Kambanella, *Reducing Prison Overcrowding in Pre-Trial Detention and Prison in the Context of COVID-19: Increasing the Use of Non-Custodial Measures*, DIGNITY Guidance Document, June 2020, [DIGNITY-COVID19-Guidance-Document-on-Non-Custodial-Measures.pdf](#)

sentences, probation, community service, treatment, early release and home-based electronic monitoring. We refer the Special Rapporteur to the Guidance document for concrete examples of measures taken by states worldwide to limit the levels of prison overcrowding at the pre-trial stage, trial and sentencing stage, and post-trial stage.

7. Studies have shown low recidivism among those released in the context of COVID-19 measures.⁴ The pandemic experience therefore suggests that the principal barrier to rapid reductions is frequently not the absence of legal tools, but the absence of the political impetus to use them.

2. Reducing entry into prison

Non-custodial sanctions instead of short prison sentences

8. **Scotland.** Since 2019, there has been a statutory presumption against prison sentences of 12 months or less.⁵ Under these presumptions, a court should not impose a sentence of 12 months or less unless it considers that no other method is appropriate.⁶ Instead, courts are encouraged to use community disposals where appropriate.⁷ The rationale is that short custodial sentences are disruptive while offering little opportunity for rehabilitation, producing a ‘revolving door’ into and out of prison.⁸
9. **England and Wales.** The Sentencing Act 2026 establishes a statutory presumption that custodial sentences of 12 months or less should be suspended rather than served immediately in prison.⁹ The measure applies where the offence has already crossed the custody threshold and the court has concluded that a custodial sentence of no more than 12 months is appropriate.
10. Notably, both models operate only in cases in which the court would otherwise impose imprisonment. This design is itself a practical safeguard against net-widening: the presumption redirects people who would otherwise be imprisoned, rather than

⁴ K. Bruce Lockhart, A.M.W. Mungai, *Lessons Learned from Prisoner Releases during the COVID-19 Pandemic*, Balsillie Papers, Vol. 6(3), 24 September 2024, p. 7. See also A global analysis of prisoner releases in response to COVID-19, DLA Piper, December 2020, pp. 44-45.

⁵ Scottish Statutory Instruments, The Presumption Against Short Periods of Imprisonment (Scotland) Order 2019, <https://www.legislation.gov.uk/ssi/2019/236/contents/made>; See also Scottish Government, Policies: Reducing reoffending, Community Sentencing, <https://www.gov.scot/policies/reducing-reoffending/community-sentencing/>.

⁶ Scottish Statutory Instruments, The Presumption Against Short Periods of Imprisonment (Scotland) Order 2019, <https://www.legislation.gov.uk/ssi/2019/236/contents/made>; See also Scottish Government, Policies: Reducing reoffending, Community Sentencing, <https://www.gov.scot/policies/reducing-reoffending/community-sentencing/>.

⁷ See Scottish Government, Policies: Reducing reoffending, Community Sentencing, <https://www.gov.scot/policies/reducing-reoffending/community-sentencing/>.

⁸ *Ibid.*

⁹ Sentencing Act 2026 (UK), <https://www.legislation.gov.uk/ukpga/2026/2/notes/division/3/index.htm>.

extending criminal-justice supervision to people who would not have received a custodial sentence.

Reducing the use of pre-trial detention

11. **Estonia.** Estonia has achieved a substantial long-term reduction in pre-trial detention, with the remand population falling from about 1,639 in 2000 to around 430 in 2026.¹⁰ Its legal framework treats detention as a measure of necessity: a suspect may be detained where there is a risk of absconding or further offending and subsequent taking into custody is “inevitable.”¹¹ Estonia also subjects detention to strict temporal controls, generally limiting pre-trial detention to six months for serious first-degree offences and four months for second-degree offences.¹² Judicial authorisation is normally granted for only two months at a time, requiring prosecutors periodically to justify continued detention.¹³ These safeguards operate alongside non-custodial preventive measures, allowing procedural risks to be managed without imprisonment. As of September 2026, 25% of the prison population were remand prisoners.¹⁴
12. **Poland.** Poland had a serious problem with excessive and lengthy pre-trial detention in the 1990s and 2000s. The European Court of Human Rights repeatedly found violations of Article 5 of the European Convention on Human Rights, including cases involving detention lasting several years.¹⁵ Since then, Poland has effected a substantial reduction in its population of detainees. Polish government data reported to the UN Human Rights Committee in 2016 showed that the number of pre-trial detainees fell from 34,549 in 2005 to 11,558 in 2014 — a 67% reduction.¹⁶ According to World Prison Brief, only 11% of the total prison population were remand prisoners on 31 July 2026.¹⁷
13. The reduction followed sustained pressure from the Council of Europe. In 2007 the Committee of Ministers adopted an Interim Resolution urging Poland to reduce the length of detention on remand, and in 2009 the European Court characterised the

¹⁰ World Prison Brief, Estonia, <https://prisonstudies.org/country/estonia>.

¹¹ Estonia - Criminal Procedure Code 2003 (2020), Chapter 4 – Securing of Criminal Proceedings, Division 1, Preventive Measure, § 130, <https://cjad.nottingham.ac.uk/en/state/49/keyword/511/>.

¹² Estonia - Criminal Procedure Code 2003 (2020), Chapter 4 – Securing of Criminal Proceedings, Division 1, Preventive Measure, §§ 131.1, 131.4, <https://cjad.nottingham.ac.uk/en/state/49/keyword/511/>.

¹³ Estonia - Criminal Procedure Code 2003 (2020), Chapter 4 – Securing of Criminal Proceedings, Division 1, Preventive Measure, §§ 131.1, 131.4, <https://cjad.nottingham.ac.uk/en/state/49/keyword/511/>.

¹⁴ World Prison Brief, Estonia, <https://prisonstudies.org/country/estonia>.

¹⁵ See e.g. *Kauczor v. Poland*, ECtHR, App. no. 45219/06, 3 May 2009,

¹⁶ Seventh Periodic Report of Poland to the Human Rights Committee, UN Doc. CCPR/C/POL/7, 8 February 2016, para. 112.

¹⁷ World Prison Brief, Poland, https://www.prisonstudies.org/country/poland?language_content_entity=en-gb.

problem as structural.¹⁸ Because the violations stemmed primarily from judicial practice rather than from the legal framework, Poland's response centred on changing that practice. This included systematic training for judges and prosecutors on the European Court's case law; internal reporting requirements obliging prosecutors to escalate detentions exceeding nine months and one year; quarterly oversight by appellate court presidents of all cases involving detention beyond two years; and legislative and Constitutional Court interventions that narrowed the grounds for extending detention.¹⁹ The Polish experience nonetheless also illustrates the fragility of such gains: civil society monitoring found that courts continued to grant the large majority of prosecutorial detention requests, and the pre-trial detention population, having fallen to 4,162 at the end of 2015, subsequently rose again, reaching 8,365 according to civil-society monitoring submitted to the Committee of Ministers in 2019.²⁰

14. **Jordan.** Jordan provides an example of a decade-long reduction in pre-trial detention's share of the prison population, achieved through legal reform combined with sustained engagement between State institutions and civil society, in which DIGNITY was directly involved. Pretrial detention fell from 47.9% of the prison population (2005) to 36.9% (2019).²¹ Judicial decisions imposing alternatives to pre-trial detention rose from 322 (2022) to 2,279 (2023) and 2,176 (2024)—a roughly sevenfold increase over two years.²²
15. The reform was implemented through a combination of 2017 and 2022 amendments to the Code of Criminal Procedure (CCP); the 2022–2026 Justice Sector Strategy; the pandemic-era experience of reduced pretrial populations; and Ministry of Justice guidelines on alternatives (2022) plus specific electronic-monitoring instructions (2025).²³

¹⁸ Committee of Ministers, Interim Resolution CM/ResDH(2007)75, 6 June 2007 *Kauczor v. Poland*, ECtHR, App. no. 45219/06, 3 May 2009, paras. 58–60.

¹⁹ Communication from Poland concerning the Trzaska group of cases against Poland (Application No. 25792/94), Revised Action Report, 23 October 2014, Council of Europe Doc. DH-DD(2014)1312, pp. 3–9, <https://rm.coe.int/0900001680511d6e>.

²⁰ Helsinki Foundation for Human Rights, "Problem of ordering pre-trial detention still unsolved", <https://archiwum.hfhr.pl/en/problem-of-ordering-pre-trial-detention-still-unsolved/> (reporting acceptance rates of 88% for motions to order and 95% for motions to extend pre-trial detention in 2012); Helsinki Foundation for Human Rights, Submission to the Committee of Ministers concerning the execution of *Burza v. Poland*, 2019, Ex. Sum., <https://hfhr.pl/upload/2022/01/summary-of-the-submission.pdf>.

²¹ E. Sondergaard & J. Prud'homme, *DIGNITY's State Dialogue Programme to Prevent Torture: Overview and analysis of implementation in Jordan and Tunisia 2008-2019*, DIGNITY Publication Series #39, 2021, p. 36, <https://dignity.dk/wp-content/uploads/publication-series-39-print.pdf>.

²² R. Smadi & E. Sondergaard, *Non-Custodial Alternatives to Pre-Trial Detention in Jordan*, DIGNITY Publication Series #47, 2025, p. 14, https://dignity.dk/app/uploads/Non-custodial-Alternatives-to-Pre-trial-Detention-in-Jordan-2025_English.pdf.

²³ *Ibid.*, pp. 7, 10, 13, 15.

16. As amended in 2017, Article 114 of the CCP makes pretrial detention exceptional in principle, regulated by clear provisions, and tied to specific investigative grounds (evidence preservation, witness protection, flight risk, public order).²⁴ It authorises five alternatives to pre-trial detention for (a) first-time offenders and (b) where the purpose of detention can otherwise be met: electronic monitoring, travel ban, house arrest/geographic restriction, bail/financial guarantee, and prohibition of access to specified places.²⁵
17. The legal reforms were also implemented through NGO–State partnerships. These included bringing prosecutors and judges together for peer-to-peer dialogue, including South–South and North–South dialogue; drafting and launching manuals on the implementation of legal standards, which established platforms for dialogue with larger groups in society and contributed to a more robust understanding of the legal framework; a sectoral approach engaging all actors in the justice sector, including the Judicial Council, the Ministry of Justice and the Bar Association; cooperation and collaboration with multilateral organisations; and monitoring and evaluation.²⁶
18. An independent evaluation confirmed that the increased attention to the use of pre-trial detention resulting from the revised guidelines and the training of prosecutors had a positive impact on the use of pre-trial detention in Jordan.²⁷
19. However, echoing the experience in Poland, the sustainability of these gains is uncertain. Growth plateaued in 2024 (a 4.5% dip from 2023), and travel bans accounted for approximately 98% of all alternatives issued.²⁸ The expansion has thus been concentrated in the least supervised and least resource-intensive measure. While this is positive in itself, wider use of the other available alternatives might have avoided the plateau. The plateau may be the result of weak judicial confidence in these alternatives; lack of infrastructure to implement electronic monitoring on a wide scale; a tendency among executive authorities to use detention as a deterrent tool, especially

²⁴ R. Smadi & E. Sondergaard, *Non-Custodial Alternatives to Pre-Trial Detention in Jordan*, DIGNITY Publication Series #47, 2025, pp. 10-11, https://dignity.dk/app/uploads/Non-custodial-Alternatives-to-Pre-trial-Detention-in-Jordan-2025_English.pdf; DIGNITY & Tamkeen, *In the Grip of Doubt: Detention without conviction and an unjustified cost*, 2025, p. 6, <https://dignity.dk/app/uploads/Position-Paper-In-the-Grip-of-Doubt-Detention-Without-Conviction-and-an-Unjustified-Cost.pdf>.

²⁵ R. Smadi & E. Sondergaard, *Non-Custodial Alternatives to Pre-Trial Detention in Jordan*, DIGNITY Publication Series #47, 2025, p. 12, https://dignity.dk/app/uploads/Non-custodial-Alternatives-to-Pre-trial-Detention-in-Jordan-2025_English.pdf

²⁶ E. Sondergaard & J. Prud'homme, *DIGNITY's State Dialogue Programme to Prevent Torture: Overview and analysis of implementation in Jordan and Tunisia 2008-2019*, DIGNITY Publication Series #39, 2021, pp. 22-31, <https://dignity.dk/wp-content/uploads/publication-series-39-print.pdf>.

²⁷ *Ibid.*, p. 37.

²⁸ R. Smadi & E. Sondergaard, *Non-Custodial Alternatives to Pre-Trial Detention in Jordan*, DIGNITY Publication Series #47, 2025, p. 15, https://dignity.dk/app/uploads/Non-custodial-Alternatives-to-Pre-trial-Detention-in-Jordan-2025_English.pdf.

in cases that attract public or tribal attention; weak coordination between the judiciary and community centres or guaranteeing institutions; and the exhaustive listing of alternatives in Article 114 bis of the Code of Criminal Procedure.²⁹

20. Two further cautions arise from the Jordanian experience. First, alternatives to pre-trial detention apply only to first-time offenders and are codified in law by an exhaustive (not illustrative) statutory list, binding judicial and prosecutorial discretion. For example, by including an exhaustive list, the law precludes resort to conditional release, release under third-party responsibility and diversion programs.³⁰ Best practice would therefore be for the statutory list to be illustrative rather than exhaustive.
21. Second, the “return order” practice undermines judicial release decisions. When an order of release is issued—or when detention is substituted with alternatives—the police station has already placed what is termed a “return order” on its control system. This means that if the accused is released, he is immediately returned to the territorially competent police station, which then recommends to the administrative governor that the accused be administratively detained or bound by a guarantee/bond pursuant to the Crime Prevention Law. This practice results in the continued detention of the accused outside the judicial process, with this period not counted toward judicial detention.³¹ Reforms to judicial pre-trial detention can therefore be neutralised where a parallel administrative detention track remains available.

Externalisation of imprisonment

22. European governments are showing increasing interest in using prisons outside their own territory as a means of responding to prison overcrowding and staffing shortages. Under these extraterritorial imprisonment schemes, a state rents prison places in another country and transfers people serving prison sentences there.
23. In Europe, Belgium was the first to adopt this model, renting prison capacity at Tilburg Prison in the Netherlands between 2010 and 2016.³² Norway followed, leasing 242 places at Norgerhaven prison in the Netherlands from 2015 to 2018.³³

²⁹ DIGNITY & Tamkeen, *In the Grip of Doubt: Detention without conviction and an unjustified cost*, 2025, p. 6, <https://dignity.dk/app/uploads/Position-Paper-In-the-Grip-of-Doubt-Detention-Without-Conviction-and-an-Unjustified-Cost.pdf>.

³⁰ *Ibid.*, p. 23.

³¹ *Ibid.*, p. 8.

³² Convention between the Kingdom of the Netherlands and the Kingdom of Belgium on the provision of a penitentiary institution in the Netherlands for the execution of custodial penalties of Belgian sentences, <https://treatydatabase.overheid.nl/en/Treaty/Details/012168>.

³³ Agreement between the Kingdom of the Netherlands and the Kingdom of Norway on the use of a prison in the Netherlands for the purpose of the execution of Norwegian sentences of imprisonment, <https://verdragenbank.overheid.nl/en/Treaty/Details/013140>.

24. More recently, Denmark has entered into a bilateral treaty with Kosovo enabling Denmark to rent 300 places at Gjilan prison for third-country nationals serving custodial sentences and subject to expulsion.³⁴ Sweden has pursued a similar approach, concluding an agreement with Estonia under which up to 600 prisoners may be held at Tartu Prison.³⁵ Although these arrangements are commonly presented as pragmatic responses to overcrowding and capacity constraints, they represent a more significant development in penal policy: the increasing detachment of imprisonment from the territory of the sentencing state, and with it a redistribution of authority and responsibility between the state imposing the sentence, the state administering the prison, and the prisoner subject to both systems.
25. The externalisation experience of Norway illustrates the human rights and rule of law problems that can arise. Following its inspection of Norgerhaven prison, the Norway's Ombudsman, acting as Norway's National Preventive Mechanism under OPCAT, concluded that transferred prisoners were not adequately protected against torture or inhuman or degrading treatment.³⁶ Its central concern was the creation of legal and accountability gaps: although prisoners remained under Norwegian jurisdiction, Dutch authorities controlled important coercive functions and Norway could not itself investigate or prosecute alleged criminal conduct by Dutch prison staff, potentially impairing its obligations under the UN Convention against Torture. The Ombudsman also raised concerns about blanket use of restraints during transfers, language and communication barriers, access to health care, reduced access to education and rehabilitation, delays in decisions on progression and parole, and the practical restriction of family visits caused by detention abroad.
26. The illustrated concerns have wider relevance to the Danish and Swedish schemes. The Council of Europe's Committee for the Prevention of Torture (CPT) has likewise warned that the Denmark-Kosovo treaty could raise a number of concerns.³⁷

In the CPT's view, the Denmark-Kosovo treaty could potentially raise a number of serious issues of concern. Among others, Article 24, paragraph 1, of the bilateral treaty stipulates that criminal offences committed by Kosovo prison staff are to be prosecuted by Kosovo authorities,⁶⁵ which would amount to a partial relinquishing of jurisdiction for matters that should in principle fall within the responsibility of the Danish authorities. Furthermore, the treaty would appear to be in contradiction with

³⁴ Treaty between the Kingdom of Denmark and the Republic of Kosovo on the use of the Correctional Facility in Gjilan for the purpose of the execution of Danish sentences, available at: [Final-treaty-Denmark-Kosovo.pdf](#)

³⁵ [Estonian Parliament approves prison lease agreement between Estonia and Sweden | Ministry of Justice and Digital Affairs](#)

³⁶ Visit to Norgerhaven Prison, 19-22 September 2016, <https://www.sivilombudet.no/en/news/prevention-torture/the-serving-of-sentences-in-the-netherlands-is-in-violation-of-norways-human-rights-obligations/>

³⁷ CPT, Report to the Danish Government on the visit to Denmark carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 May to 3 June 2024, CPT/Inf (2024) 38, para. 62, <https://rm.coe.int/1680b2bb49>.

two key principles underpinning the Council of Europe Convention on the Transfer of Sentenced Persons (ratified by Denmark) that is that any such transfers are to be carried out towards the State of the person's nationality and must be voluntary (except where the person to is subject to expulsion or deportation once they have served their sentence, or have fled or moved to the territory of their State of nationality, where consent to transfer to the State of nationality is not required).⁶⁶

27. Overall, extraterritorial imprisonment arrangements raise significant concerns about legal responsibility, accountability and effective protection of prisoners' rights. Where investigative and prosecutorial powers are exercised by the receiving state, responsibility may become fragmented and the sentencing state's ability to investigate abuses or ensure compliance with its human rights obligations may be weakened. Such arrangements may also conflict with established principles governing prisoner transfers, particularly those relating to nationality and consent. In addition, detention abroad can adversely affect prisoners' access to health care, rehabilitation, family contact and effective remedies.

Recommendations. States should:

- Introduce statutory presumptions against short custodial sentences, applicable only where the court would otherwise impose imprisonment, so that alternatives replace custody rather than widen the net.
- Treat pre-trial detention as a measure of strict necessity, subject to maximum time limits and short periods of judicial authorisation that require prosecutors to justify continued detention at regular intervals.
- Frame statutory lists of alternatives to detention as illustrative rather than exhaustive, and do not restrict their availability to first-time offenders.
- Close parallel administrative detention routes, such as Jordan's "return orders", which allow judicial release decisions to be circumvented, and ensure that any period of administrative detention is subject to judicial oversight and counted toward judicial detention.
- Monitor the use of alternatives alongside the size of the remand population, so that it is possible to verify that alternatives are replacing detention rather than being added to it.
- Support sustained, structured cooperation between justice-sector institutions and civil society, including peer-to-peer dialogue and training for prosecutors and judges, as a means of changing institutional practice and not only the law.
- Refrain from using extraterritorial prison schemes as a substitute for addressing structural causes of prison overcrowding and, where such schemes are pursued, ensure that they are subject to clear legal safeguards, independent monitoring, accessible remedies, and clear allocation of responsibility between the sending

and receiving states. Any transfer should preserve prisoners' rights and should not weaken the sending state's international human rights obligations, notably its duty to prevent, investigate and remedy torture and other ill-treatment.

3. Reducing time spent in prison

28. **Jordan.** Article 25 bis of Jordan's Penal Code permits the competent court, on the basis of a social-status report, to replace the unserved part of a custodial sentence where the convicted person has demonstrated good conduct, the remaining term does not exceed one year, and the original sentence was between three and eight years.³⁸ Available measures include community service, rehabilitation, addiction treatment, electronic monitoring, geographic exclusion, and residence at home or within a specified area.³⁹ While this mechanism is capable of directly reducing time spent in prison, unfortunately the Ministry of Justice's published statistics do not disaggregate how many beneficiaries entered an alternative after serving part of a sentence, as distinct from those receiving an alternative at sentencing.⁴⁰
29. **Morocco.** Morocco has had an early conditional release mechanism in place since 1959, which allows a sentenced prisoner to leave prison before the full custodial term has expired, provided statutory eligibility requirements are met and the release is approved subject to conditions. However, the mechanism was effectively dormant until 2022. Since then, the number of persons released conditionally has increased: 2022: 160; 2023: 204; 2024: 371 and 2025: 835.⁴¹ The ongoing technical support provided by DIGNITY, in collaboration with Denmark's Prison Service, has contributed significantly to strengthening the conditional release mechanism in Morocco. The eligibility rules are set out in CCP Article 622. For an ordinary misdemeanour, the prisoner generally must have served at least ½ of the sentence. For a felony, ⅔ of the sentence must generally have been served. For both types of offences, the prisoner must have demonstrated sufficient improvement in conduct. Law 03.23 creates more favourable thresholds in Article 626 for certain groups, including juveniles and humanitarian cases, sick or elderly prisoners, pregnant women and mothers accompanied by children. These categories may qualify after actually serving at least ¼ of the sentence in case of misdemeanours and ½ of the sentence in case of felonies.

³⁸ Jordanian Ministry of Justice, Alternatives to Deprivation of Liberty, https://moj.gov.jo/EN/List/Alternatives_to_Deprivation_of_Liberty.

³⁹ Jordanian Ministry of Justice, Alternatives to Deprivation of Liberty, https://moj.gov.jo/EN/List/Alternatives_to_Deprivation_of_Liberty.

⁴⁰ Jordanian Ministry of Justice, Alternatives to Deprivation of Liberty, https://moj.gov.jo/EN/List/Alternatives_to_Deprivation_of_Liberty.

⁴¹ *Wahbe reveals record rise in the number of beneficiaries of conditional release in Morocco*, 15 March 2026, <https://febrayer.com/1138987.html>.

30. A recent amendment to the Code of Criminal Procedure of Morocco (2025)⁴² introduced so-called ‘automatic reduction of the sentence’, governed by CCP Articles 632-1 to 632-7. The law establishes a statutory mechanism that operates once defined conditions have been verified. For sentences of one year or less, the statutory reduction is five days for each month. For sentences exceeding one year, Article 632-1 provides for one month for each year plus three days for each month. The judgment must be final, and the prisoner must normally have served at least one quarter of the custodial sentence. Additionally, the prisoner must have demonstrated sufficient improvement in conduct. According to figures attributed to Justice Minister Abdellatif Ouahbi, 88,229 prisoners benefited from the new calculation between 29 January and 15 March 2026, representing 88.4% of the prison population of 99,807 (29 January 2026).⁴³ The recalculation produced an immediate release for 8,947 people.⁴⁴
31. The Moroccan experience offers two lessons. First, the existence of a release mechanism in law does not ensure its use: conditional release was available for more than six decades before it began to be applied in meaningful numbers. Second, mechanisms that operate automatically once objective conditions are verified can reach a far larger share of the prison population, far more quickly, than mechanisms that depend on individual applications and discretionary approval.

Release without liberty: amnesties and release orders that do not reduce overcrowding

32. Of course, release measures do not reduce overcrowding where release is nominal, performative, or for political expediency. In **Egypt**, “recycling” or “rotation” is the practice whereby fresh charges are directed against a detainee against whom a release order has been issued or who has completed his sentence, thereby keeping him in detention indefinitely.⁴⁵ Used primarily in political cases, this mechanism keeps the system’s level permanently high, and explains part of why overcrowding is impervious to a construction solution—there is no point in increasing capacity so long as the “entrance” remains open without effective control and the “exit” remains shut.

⁴² [دخول القانون رقم 03.23 الجديد للمسطرة الجنائية حيز التنفيذ يوم 8 دجنبر](#) Law No 03.23, which amended Morocco’s existing code of criminal procedure, Law no 22.01, was promulgated on 13 August 2025, published in the Official Gazette No 7437 on 8 September 2025, and entered into force on 8 December 2025.

⁴³ [وزير العدل يعلن تراجع عدد السجناء](#) (Minister of Justice announces a decline in the number of prisoners), HES Press, 31 March 2026, [وزير العدل يعلن تراجع عدد السجناء](#) and *Surpopulation carcérale: le nouveau mécanisme de réduction de peine fait ses preuves*, le360, 13 May 2026, https://fr.le360.ma/politique/surpopulation-carcerales-le-nouveau-mecanisme-de-reduction-de-peine-fait-ses-preuves_BQ6II3HXDFBBEAWZOZXZLYCI/.

⁴⁴ [وزير العدل يعلن تراجع عدد السجناء](#) (Minister of Justice announces a decline in the number of prisoners), HES Press, 31 March 2026.

⁴⁵ See MENA Rights Group, *The practice of “rotation”: how Egypt keeps its dissidents in indefinite detention*, 14 December 2021, <https://menarights.org/en/articles/practice-rotation-how-egypt-keeps-its-dissidents-indefinite-detention>.

Moreover, the reactivation of the Presidential Pardon Committee in April 2022 did not reverse this trend: between April 2022 and September 2023, the authorities released approximately 1,700 detainees while arresting more than 4,500, meaning that the number of detainees continued to rise on a net basis.⁴⁶ The Committee for Justice similarly documented 332 releases against 950 new cases of arbitrary detention in the months following the Committee's reactivation.⁴⁷

33. **Myanmar.** Myanmar displays the same re-arrest pattern as Egypt: political prisoners are released in broad amnesties only to be re-arrested at the prison's gates, brought before a judge and re-sentenced.⁴⁸ In a report by the Assistance Association for Political Prisoners (AAPP), released political prisoners describe being placed under surveillance and re-arrested "immediately following release before they even got back home".⁴⁹
34. The common thread is that both Egypt and Myanmar have unaccountable security apparatuses capable of overriding judicial or legislative release orders and regulations. The barrier is therefore less formal or legal and instead lies in political context and structure.

Recommendations

- Design early-release and sentence-reduction mechanisms to operate automatically once objective conditions are verified, rather than relying solely on applications and discretionary approval.
- Provide more favourable eligibility thresholds for groups particularly affected by imprisonment, such as older, seriously ill or pregnant prisoners and mothers accompanied by children.
- Publish disaggregated data on the use of release mechanisms, including how many people move to alternatives after serving part of a sentence.

⁴⁶ Human Rights Watch, *World Report 2024: Egypt*, 2024, as cited in Association of Families of Egyptian Detainees, *Prison Overcrowding in Egypt*, p. 16. On the reactivation, see Amnesty International, *Egypt: Exclude security agencies from reviewing releases of jailed critics*, May 2022, <https://www.ecoi.net/en/document/2073764.html>.

⁴⁷ Committee for Justice, *Egypt: CFJ research finds hundreds arbitrarily detained since President Sisi launched pardon committee*, <https://www.cfjustice.org/?p=29632>.

⁴⁸ M. Moe & R. Ratcliffe, *Myanmar: Over 100 political prisoners re-arrested after release by military*, The Guardian, 22 October 2021, <https://www.theguardian.com/world/2021/oct/22/myanmar-over-100-political-prisoners-re-arrested-after-release-by-military>; P.T. Cho, *Junta re-arrests political prisoners moments after release*, Myanmar Now, 3 October 2025, <https://myanmar-now.org/en/news/junta-re-arrests-political-prisoners-moments-after-release/>.

⁴⁹ AAPP, *Flow of Injustice: 2023 Prison Situation Report*, p. 33 <https://aappb.org/wp-content/uploads/2023/07/The-Flow-of-injustice-Prison-Report-10-Jul-2023.pdf>.

- Ensure independent monitoring of re-arrest following release, amnesty or pardon, and treat fresh charges brought against persons ordered released as a matter warranting judicial scrutiny.

4. Capacity limits, prevention and emergency responses

Defining overcrowding and the applicable standards

35. There is no consensus on a definition of overcrowding.⁵⁰ The most common definition relates to spatial density such as living space per detainee or number of beds.⁵¹ Overcrowding can also be defined based on operational capacity, i.e., prison population to staffing levels or based on social density, i.e. percentage of detainees housed in group versus single cells where the higher the proportion of group housing, the higher the social density.⁵²
36. The UN Committee against Torture and the UN Human Rights Committee have found that overcrowding combined with insanitary conditions may violate, respectively, the Convention against Torture and the International Covenant on Civil and Political Rights.⁵³ The UN Subcommittee on the Prevention of Torture (SPT) considered the subjection of detainees to “extreme” overcrowding as potentially amounting to ill-treatment and even torture when prolonged and combined with unacceptable material conditions.⁵⁴
37. The European Court of Human Rights has stressed that it cannot determine, once and for all, a specific number of square metres that should be allocated to a detainee in order to comply with the European Convention on Human Rights.⁵⁵ While upholding a strong presumption of violation where a detainee has less than 3 m² of floor space for

⁵⁰ DIGNITY Fact Sheet Collection HEALTH #18 PRISON OVERCROWDING, <https://dignity.dk/wp-content/uploads/prison-overcrowding-factsheet-english.pdf>.

⁵¹ CPT (2015). Living space per prisoner in prison establishments: CPT standards. Oxford University Press. <https://doi.org/10.1093/law-mpeipro/e1516.013.1516>; Simpson, P. L., Simpson, M., Adily, A., Grant, L., & Butler, T. (2019). Prison cell spatial density and infectious and communicable diseases: A systematic review. *BMJ Open*, 9(7), e026806. <https://doi.org/10.1136/bmjopen-2018-026806>.

⁵² Wooldredge, J., & Steiner, B. (2009). Comparing Methods for Examining Relationships Between Prison Crowding and Inmate Violence. *Justice Quarterly*, 26(4), 795–826. <https://doi.org/10.1080/07418820802427841>.

⁵³ UNCAT (2018). Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 493/2012, Damien Ndarisigaranye v Burundi; UNODC (2013). Handbook on Strategies to Reduce Overcrowding in Prisons. p. 14 https://www.unodc.org/documents/justice-and-prison-reform/Overcrowding_in_prisons_Ebook.pdf.

⁵⁴ SPT, (2012). Country Visit Report: Brazil, CAT/OP/BRA/1. <https://atlas-oftorture.org/en/document/6zhrqkn92xb89wz1x8zmmh1tt9?page=3>; SPT, U. S. on the P. of T. (2014). Country Visit Report: Mali, CAT/OP/MLI/1. <https://atlas-oftorture.org/en/document/a4a6yd4tqgea1d10kto1es714i?page=11>.

⁵⁵ *Muršić v. Croatia* [GC], 2016, § 103.

multi-occupancy prisons,⁵⁶ it likewise considers a number of other relevant factors, such as the duration of detention, the possibilities for outdoor exercise and the physical and mental condition of the detainee, play an important part in deciding whether the detention conditions satisfied the guarantees of Article 3.⁵⁷ Nevertheless, extreme lack of space in prison cells weighs heavily as an aspect to be taken into account for the purpose of establishing whether the impugned detention conditions were “degrading” within the meaning of Article 3 of the Convention.⁵⁸

38. The European Committee for the Prevention of Torture (CPT) considers that, for every prison, there should be an absolute upper limit for the number of prisoners (“*numerus clausus*”), in order to guarantee the minimum standard in terms of living space. The CPT’s minimum standard for personal living space in prison is: 6m² per person in single cells and 4m² per person in multiple occupancy cells (excluding the sanitary annexe).⁵⁹

The consequences of having no enforceable limit: Egypt

39. The Egyptian case illustrates how the total absence of a capacity mechanism contributes to widespread overcrowding. Egyptian law (Prisons Organization Law 396/1956, as amended by Law 14/2022) contains no explicit minimum floor-space-per-inmate standard. “Capacity” and “appropriateness” are left to the discretion of the prison administration — identified as the central legal gap enabling unaccountable overcrowding.⁶⁰ Human Rights Watch’s cell-level documentation at Tora “Scorpion” prison recorded densities as low as approximately 1 m² per inmate.⁶¹

Emergency responses

40. With regard to measures that can be implemented rapidly when overcrowding places persons deprived of liberty at serious risk of ill-treatment, see the description of

⁵⁶ *Muršić v. Croatia* [GC], 2016, § 136.

⁵⁷ *Muršić v. Croatia* [GC], 2016, § 103; see also *Samaras and Others v. Greece*, 2012, § 57; *Varga and Others v. Hungary*, 2015, § 76.

⁵⁸ Registry of the European Court of Human Rights, Guide on the case-law of the European Convention on Human Rights: Prisoners’ Rights, para 28, 28 February 2026, citing *Orchowski v. Poland*, 2009, § 122; *Ananyev and Others v. Russia*, 2012, § 143, https://ks.echr.coe.int/documents/d/echr-ks/guide_prisoners_rights_eng.

⁵⁹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Living space per prisoner in prison establishments: CPT standards, CPT/Inf (2015) 44, 15 December 2015, <https://rm.coe.int/16806cc449>; and Combating prison overcrowding, Extract from the 31st General Report of the CPT published on 21 April 2022, CPT/Inf (2022) 5 – part, para 102, <https://rm.coe.int/cpt-standard-combating-prison-overcrowding/1680a64461>.

⁶⁰ Association of Families of Egyptian Detainees, *Prison Overcrowding in Egypt: an instrument of psychological and health punishment, its legal and humanitarian implications – A Legal and Human Rights Report*, 2026, pp. 37-38, https://www.middleeastmonitor.com/wp-content/uploads/2026/07/Prison_Overcrowding_in_Egypt_EN.pdf.

⁶¹ Human Rights Watch, “*We Are in Tombs*”: Abuses in Egypt’s Scorpion Prison, 28 September 2016; Human Rights Watch, *Egypt: Collective Punishment in Scorpion Prison*, 17 December 2020.

measures taken during the COVID-19 pandemic discussed in section 1. The measures adopted at that time, at the pre-trial, sentencing and post-trial stages, could be codified as standing emergency protocols, to be activated when defined occupancy thresholds are exceeded.

Recommendations

- Establish in law a maximum capacity (*numerus clausus*) for every place of detention, based on the CPT living-space standards, and prohibit increasing capacity by adding beds to existing accommodation.
- Specify in law which authorities must act when a prison facility reaches or exceeds its capacity, and which measures are triggered, drawing on the release and diversion mechanisms used during the COVID-19 pandemic.
- Require independent monitoring and regular public reporting of occupancy, by facility and not only system-wide.

5. Prison construction and expansion

41. The CPT has noted that in certain European countries substantial sums are being spent on building new prisons and/or adopting policies to expand the capacity of the prison estate. The CPT is firmly of the view that constructing new prisons and/or permitting prison population inflation will not provide a lasting solution to the problem of overcrowding.⁶² The experiences of Türkiye, Egypt and Myanmar, set out below, illustrate this.
42. **Türkiye.** In its report on the 2013 periodic visit to Türkiye, the CPT recorded that around 60 new prisons providing approximately 31,000 places had opened since 2009, while the authorities planned 207 further prisons with approximately 125,000 places, potentially increasing national capacity to around 245,000. The CPT also noted that capacity had been increased by putting additional beds into existing accommodation, sometimes producing extremely cramped conditions.⁶³ The expansion has since continued. In its subsequent reporting, the CPT noted that the prison population had risen from approximately 56,000 in 2005 to 132,000 in 2013 and around 221,000 by

⁶² European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Combating prison overcrowding Extract from the 31st General Report of the CPT published on 21 April 2022, CPT/Inf (2022) 5 – part, para 104, [1680a64461](https://rm.coe.int/1680a64461)

⁶³ CPT, Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 21 June 2013, CPT/Inf (2015) 6, para 45-46, <https://rm.coe.int/1680698344>.

2017.⁶⁴ The authorities were simultaneously planning 228 additional prisons by 2021.⁶⁵ The CPT acknowledged that Türkiye was also increasing conditional release, judicial supervision and community work, but warned that constructing new prisons would not by itself provide a lasting solution and called for measures to curb “prison population inflation.”⁶⁶ Türkiye continued adding capacity, but its prisoner population increased even faster. World Prison Brief data show the prison population rising from 49,512 in 2000 to 158,837 in 2014, 264,842 in 2018, 341,497 in 2022, and 434,681 by September 2026.⁶⁷ As of April 2025, official capacity was about 299,940 places, with occupancy at approximately 133%.⁶⁸

43. **Egypt.** Egypt has undergone a major prison construction wave since 2011. According to ANHRI, Egypt had 43 main prisons before January 2011; by March 2021 the number had risen to 78, with 35 new prisons built in the intervening decade, including 17 between September 2016 and March 2021 alone.⁶⁹ Broader estimates put total detention facilities at approximately 168 by 2021 once Ministry of Interior-affiliated sites are counted.⁷⁰ Despite building expansion, there has been no reduction in prison overcrowding. In 2015, the National Council for Human Rights acknowledged Egyptian prisons were at over 150% capacity.⁷¹ Since then and after the new prison construction, the system-wide occupancy was at approximately 207% in 2020.⁷² In

⁶⁴ CPT, Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 23 May 2017, CPT/Inf (2020) 22, Executive Summary, p. 6, and para. 84, <https://www.ecoi.net/en/file/local/2036447/2020-22-inf-eng.docx.pdf>

⁶⁵ CPT, Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 23 May 2017, CPT/Inf (2020) 22, Executive Summary, p. 6, and para. 84, <https://www.ecoi.net/en/file/local/2036447/2020-22-inf-eng.docx.pdf>

⁶⁶ Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 23 May 2017, CPT/Inf (2020) 22, para. 84, <https://rm.coe.int/16809f209e>.

⁶⁷ World Prison Brief, Turkey, <https://www.prisonstudies.org/country/turkey>.

⁶⁸ World Prison Brief, Turkey, <https://www.prisonstudies.org/country/turkey>.

⁶⁹ Arabic Network for Human Rights Information, *Waiting for You: 78 Prisons, Including 35 Built after the January Revolution*, April 2021; see also ANHRI, *There Is Room for Everyone*, September 2016 (as reported in Mada Masr, “Prisons in Egypt increased since revolution and June 30”, <https://www.madamasr.com/en/?p=213605>).

⁷⁰ Association of Families of Egyptian Detainees, *Prison Overcrowding in Egypt: an instrument of psychological and health punishment, its legal and humanitarian implications – A Legal and Human Rights Report*, 2026, pp. 13-14, https://www.middleeastmonitor.com/wp-content/uploads/2026/07/Prison_Overcrowding_in_Egypt_EN.pdf;

⁷¹ National Council for Human Rights (Egypt), as cited in: U.S. Department of State, Country Reports on Human Rights Practices: Egypt; and Human Rights Watch, reports 2015–2016.

⁷² Association of Families of Egyptian Detainees, *Prison Overcrowding in Egypt: an instrument of psychological and health punishment, its legal and humanitarian implications – A Legal and Human Rights Report*, 2026, p. 13, https://www.middleeastmonitor.com/wp-content/uploads/2026/07/Prison_Overcrowding_in_Egypt_EN.pdf

raw numbers, the prison population grew from approximately 66,000 in 2011 to approximately 120,000 by 2022.⁷³

44. A case in point is the Wadi al-Natrun complex, which was marketed by officials (including the head of the National Council for Human Rights, who called it a “five-star hotel”) as replacing approximately 12 old prisons with a modern, circular, naturally-ventilated design.⁷⁴ According to independent civil society, far from a luxury hotel, Wadi al-Natrun is among the facilities most frequently cited for denial-of-care and poor-conditions incidents.⁷⁵
45. This conversion from older facilities to the Wadi al-Natrun complex was part of a broader prison development agenda. In 2021 Egypt closed numerous prisons and replaced them with new “Rehabilitation Centres”. According to the Egyptian Initiative for Personal Rights (EIPR), the Wadi al-Natrun and Badr complexes were to replace 11 old prisons holding a quarter of Egypt’s prison population.⁷⁶ The new complexes were presented as state-of-the-art facilities, but in reality compounded existing issues and created new ones, in particular with regard to inhuman and degrading conditions.⁷⁷ In the new complexes, cameras installed in every cell keep detainees under round-the-clock surveillance, including while sleeping and using the toilet, and centrally controlled cell lighting is left on day and night. EIPR documents these practices in detail at Badr, noting that they first emerged at the new centres in Wadi al-Natrun.⁷⁸ EIPR concludes that placement in the new prisons amounts to a “double punishment” for detainees, and that the substantial construction budget appears to have been spent on large holding capacity, high security and permanent surveillance, while retaining the dehumanising and unhealthy designs of the old prisons.⁷⁹

⁷³ ICPR, World Prison Brief — Egypt, Prison population trend: 2011 (~66,000), 2016 (~106,000), 2019 (~114,000), 2022 (~120,000).

⁷⁴ Middle East Monitor, Egypt’s Wadi Al-Natroun prison is ‘five-star hotel’, head of Council for Human Rights says, 31 July 2023.

⁷⁵ Committee for Justice, *Systematic Patterns of Human Rights Violations and the Absence of Effective Remedies in Egypt’s Places of Detention – Annual Analytical Report*, 2025, pp. 5, 8-9, 12.

⁷⁶ Egyptian Initiative for Personal Rights, *Propaganda vs. Reality: Systematic Violations of Inmates’ Rights in Badr “Model” Prison*, December 2025, p. 5, https://eipr.org/sites/default/files/reports/pdf/propaganda_vs_reality_10.pdf.

⁷⁷ Egyptian Initiative for Personal Rights, *Propaganda vs. Reality: Systematic Violations of Inmates’ Rights in Badr “Model” Prison*, December 2025, pp. 6-21, https://eipr.org/sites/default/files/reports/pdf/propaganda_vs_reality_10.pdf

⁷⁸ Egyptian Initiative for Personal Rights, *Propaganda vs. Reality: Systematic Violations of Inmates’ Rights in Badr “Model” Prison*, December 2025, p. 16, https://eipr.org/sites/default/files/reports/pdf/propaganda_vs_reality_10.pdf.

⁷⁹ Egyptian Initiative for Personal Rights, *Propaganda vs. Reality: Systematic Violations of Inmates’ Rights in Badr “Model” Prison*, December 2025, pp. 6, 27 https://eipr.org/sites/default/files/reports/pdf/propaganda_vs_reality_10.pdf.

46. **Myanmar.** In Myanmar, 25 prison sites (42% of the 59 mapped by civil society) have been expanded since the February 2021 coup.⁸⁰ According to AAPP, 32,054 people have been arrested since the coup, a scale of arrests that the expanded prison real estate has absorbed.⁸¹
47. **Jordan.** In Jordan, a new prison at Azraq (JOD 70 million, roughly USD 100 million) is being built to address 190% occupancy, adding capacity for 3,000–4,000 inmates. By contrast, an electronic-monitoring bracelet costs JOD 300 in total.⁸²

Recommendations

48. These examples show that additional capacity can be absorbed by ever-increasing numbers of detainees. Where the drivers of imprisonment remain unaddressed, new capacity provides at most temporary relief and may itself facilitate further growth in the prison population. Instead, the only sustainable solution is criminal justice reform that reduces reliance on imprisonment, rather than increasing or multiplying holding capacity. Thus, States should:
- Treat construction as a means of replacing inadequate facilities, not of expanding total capacity.
 - Before approving capital spending on new prisons, require a comparative assessment of the cost and impact of alternatives, and redirect capital spending on prison construction toward alternatives where these can achieve the same reduction in occupancy.

6. Groups disproportionately affected and social drivers of imprisonment

49. **Jordan: migrant workers.** Administrative detention under the 1954 Crime Prevention Law and the Labour/Residency laws disproportionately captures migrant workers — often via employer-filed “malicious reports” to avoid paying wages or residency fines.⁸³ Detention can be indefinite pending deportation, with no statutory maximum, and workers face structural barriers to challenge including cost of legal representation, a requirement to retain a lawyer admitted for 5+ years, and a 60-day challenge window

⁸⁰ Myanmar Witness, *Mapping Myanmar’s Prisons*, 21 January 2024, Centre for Information Resilience, <https://www.info-res.org/myanmar-witness/reports/mapping-myanmars-prisons/>; See also M. Townsend, *Huge and secretive prison expansion in Myanmar revealed by satellite images*, The Guardian, 31 January 2024, <https://www.theguardian.com/global-development/2024/jan/31/huge-and-secretive-prison-expansion-in-myanmar-revealed-by-satellite-images>.

⁸¹ Assistance Association for Political Prisoners, *Political Prisoners Post-Coup* 3 October 2026, <https://aappb.org/>.

⁸² DIGNITY & Tamkeen, *In the Grip of Doubt: Detention without conviction and an unjustified cost*, 2025, p. 17, <https://dignity.dk/app/uploads/Position-Paper-In-the-Grip-of-Doubt-Detention-Without-Conviction-and-an-Unjustified-Cost.pdf>.

⁸³ DIGNITY & Tamkeen, *In the Grip of Doubt: Detention without conviction and an unjustified cost*, 2025, p. 15, <https://dignity.dk/app/uploads/Position-Paper-In-the-Grip-of-Doubt-Detention-Without-Conviction-and-an-Unjustified-Cost.pdf>.

most workers are never notified of.⁸⁴ Migrant workers are routed into indefinite administrative detention via the Labour Law and the Residency & Foreigners' Affairs Law, through broad, largely unreviewable gubernatorial discretion, with no statutory maximum period pending deportation.⁸⁵

50. **Egypt: political detainees and prisoners of conscience.** In Egypt, political detainees and prisoners of conscience are concentrated in pre-trial detention and are the primary subjects of "recycling" or "rotation".⁸⁶ They are concentrated in specific facilities, face harsher restrictions on family contact and communication blackouts, and are disproportionately represented among solitary-confinement and denial-of-care cases—9 of 12 documented 2025 solitary-confinement incidents were concentrated in Badr alone.⁸⁷

Health effects of overcrowding

51. In many prisons worldwide, overcrowding is a major problem and one of the greatest threats to prisoners' ability to try to stay healthy and to prison authorities' ability to improve the situation. Global norms outline the negative health effects of prison overcrowding.⁸⁸ Overcrowding and close contact between infected and non-infected individuals facilitates transmission of diseases.⁸⁹ As a recent scoping review concluded:

Overcrowding is independently and positively associated with tuberculosis, COVID-19, self-harm, depression, overall prison mortality, and injuries due to violence. Overcrowding is one of the pathways that is both an expression of disparities (the disproportionate incarceration of the poor and minorities), and a modifier of its effects (worsening the situation). It is a symptom rather than the cause. As such, we should not limit our analysis of health in overcrowded prisons to the technical problems of individual risk factors and institution-level determinants, instead we should recognize that prison overcrowding is at its root a political challenge.⁹⁰

⁸⁴ DIGNITY & Tamkeen, *In the Grip of Doubt: Detention without conviction and an unjustified cost*, 2025, p. 15, <https://dignity.dk/app/uploads/Position-Paper-In-the-Grip-of-Doubt-Detention-Without-Conviction-and-an-Unjustified-Cost.pdf>.

⁸⁵ *Ibid.*, pp. 14-15.

⁸⁶ Association of Families of Egyptian Detainees, *Prison Overcrowding in Egypt*, supra note 53, p. 17.

⁸⁷ Committee for Justice, *Systematic Patterns of Human Rights Violations and the Absence of Effective Remedies in Egypt's Places of Detention – Annual Analytical Report*, 2025.

⁸⁸ DIGNITY. *Fact Sheet Collection Health#18. Prison overcrowding*. Available at: <https://dignity.dk/en/fact-sheets-health/>

⁸⁹ DIGNITY. *Monitoring Health in Places of Detention. An overview for health professionals*, <https://dignity.dk/en/publications>.

⁹⁰ Aon et al. (2025). The association between health and prison overcrowding, a scoping review. *BMC Public Health*. Volume 25, 2218 (2025). Available at: <https://link.springer.com/article/10.1186/s12889-025-23340-9>

Recommendations

- Establish a statutory maximum period for immigration-related and other administrative detention, guarantee prompt notification of the right to challenge detention, and remove procedural barriers to legal representation for migrant workers.
- Collect and publish data on the use of alternatives and release mechanisms disaggregated by sex, nationality and other relevant characteristics, so that gaps in access can be identified and addressed.

7. Obstacles to implementation

52. **Jordan.** In Jordan, entrenched institutional habits and procedural circumvention have limited the effect of legal reform. Obstacles identified include weak judicial confidence in non-custodial alternatives; insufficient infrastructure for wide-scale electronic monitoring; an executive/prosecutorial tendency to use detention as a “deterrent tool” in cases attracting public or tribal attention; weak coordination between courts and community/guaranteeing institutions; and the exhaustive (non-illustrative) legal listing of permissible alternatives.⁹¹ In addition, as described in section 2, the “return order” practice creates a parallel administrative track that leads to continued detention even where a court has ordered release.
53. A Ministry of Justice workshop identified the need for wider public education concerning alternatives; stronger institutional capacity and training for court liaison officers; incorporation of legislative changes into the Mizan case-management system and the Ministry’s electronic alternatives platform; clearer implementation procedures and programmes; updates to electronic-monitoring systems; and action to address legal, procedural and perception-related barriers.⁹² The latest indicators also show divergent implementation trends: alternatives to imprisonment declined from 3,693 cases in 2024 to 2,314 in 2025, a decrease of approximately 37.3 per cent, while electronic-monitoring cases rose from 149 to 316, an increase of approximately 112.1 per cent.⁹³

⁹¹ R. Smadi & E. Sondergaard, *Non-Custodial Alternatives to Pre-Trial Detention in Jordan*, DIGNITY Publication Series #47, 2025, pp. 16-17, https://dignity.dk/app/uploads/Non-custodial-Alternatives-to-Pre-Trial-Detention-in-Jordan-2025_English.pdf.

⁹² Jordanian Ministry of Justice, The Ministry of Justice holds a workshop on amendments to the Penal Code in Jordan and their impact on the implementation of alternatives to custodial sentences, ["تعدّد ورشة" وزارة العدل، عمل حول تعديلات قانون العقوبات في الأردن وتأثيرها على تنفيذ بدائل العقوبات السالبة للحرية - وزارة العدل](#).

⁹³ Jordan News Agency (Petra), Official Ministry of Justice indicators for 2024–2025, “Justice”: *Legislative modernization and digital transformation are driving the accelerated development of judicial services*, 27 January 2026, [التحديث التشريعي، والتحول الرقمي يقودان تسارع تطوّر الخدمات القضائية - وكالة الأنباء الأردنية: "العدل"](#).

54. **Egypt.** In Egypt, changes have been largely cosmetic, prioritising presentation over structural reform. Law 14/2022 rebranded the “Prisons Authority” as the “Community Protection Sector” and “prisoners” as “inmates”. The shift was an effort by the government to transition from a penal to a rehabilitative philosophy. However, practices in the new “model” complexes (permanent lighting, continuous camera surveillance) are inhuman and implemented as punishment.⁹⁴

Strategies that have helped to overcome obstacles

55. The Jordanian and Polish experiences suggest that sustained, structured engagement with the institutions whose practice must change, namely prosecutors, judges and the Ministry of Justice, can shift entrenched habits where legal reform alone does not. Peer-to-peer dialogue, jointly developed guidelines, training, and the involvement of all actors in the justice sector contributed to a measurable change in the use of pre-trial detention (see section 2). Equally, the COVID-19 pandemic showed that political resistance can give way quickly when the costs of overcrowding become visible to the public and decision-makers. Clear evidence of the financial costs of imprisonment (see section 8) can play a similar role in less acute circumstances.

8. Costs and allocation of resources

56. **Jordan.** Daily cost per inmate is roughly JOD 25 (including accommodation, food, healthcare, other services). Monthly cost is JOD 750–800 depending on year/source.⁹⁵ Based on an average annual detainee count of 20,561, direct monthly cost is roughly JOD 15.42 million (meaning JOD 185.05 million annually). At the 2025 estimate of approximately 25,200 judicial inmates, monthly cost could reach approximately JOD 20 million (approximately JOD 240 million annually).⁹⁶
57. The cost of detention (JOD 185.05 million) equals about 23.1% of Jordan’s entire 2025 Ministry of Health budget and 14.4% of its Ministry of Education budget. Redirecting even half that sum (JOD 92.5 million) could fund substantial expansion of schools, hospitals, staff salaries, or social-protection programmes.⁹⁷ An electronic-monitoring bracelet costs JOD 300 in total — a fraction of a single month’s custodial cost per inmate.⁹⁸

⁹⁴ EIPR, *Propaganda v. Reality: Systemic Violations of Inmates Rights in Badr “Model” Prison*, December 2025, https://eipr.org/sites/default/files/reports/pdf/propaganda_vs_reality_10.pdf.

⁹⁵ DIGNITY & Tamkeen, *In the Grip of Doubt: Detention without conviction and an unjustified cost*, 2025, p. 18, <https://dignity.dk/app/uploads/Position-Paper-In-the-Grip-of-Doubt-Detention-Without-Conviction-and-an-Unjustified-Cost.pdf>.

⁹⁶ *Ibid.*, pp. 18-20,

⁹⁷ *Ibid.*, pp. 18-20.

⁹⁸ *Ibid.*, pp. 18-20.

58. Set against the JOD 70 million being spent on a new prison at Azraq (see section 5), these figures show that resources are currently being allocated in ways that sustain, rather than reduce, reliance on imprisonment.

Recommendations

- Redirect capital spending on prison construction toward alternatives to detention, including the infrastructure needed to use electronic monitoring and supervised alternatives at scale.
- Publish comparative data on the cost of detention and of non-custodial measures, so that budgetary decisions are taken on an informed basis.