

URGENT ACTION

WOMAN DETAINED BECAUSE OF DISCRIMINATORY LAWS

Domoina Ranabosoa has been held in inhumane conditions in pre-trial detention in Antanimora prison, Madagascar, since 10 March. She is charged with ‘corruption of minors under the age of 21’, accused of having a same-sex relationship with her girlfriend, a 19-year old woman. Since her incarceration, Domoina Ranabosoa’s physical and mental health have deteriorated. Due to the COVID-19 pandemic, she is not allowed to receive visits from her lawyer or visitors, and her trial date has been postponed to an undetermined date.

TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER

*Monsieur le Président de la République de Madagascar, Andry Rajoelina
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His Excellency, the President of the Republic of Madagascar,

I am writing to express my concern about Domoina Ranabosoa, a 33-year old woman who, based on the available information, is currently being held in pre-trial detention, in inhumane conditions of detention in Antanimora prison, accused of corrupting her 19-year old girlfriend. I was shocked to learn that in Madagascar, you can risk up to five years imprisonment for engaging in a consensual same-sex relationship under the age of 21 – a law which is discriminatory against LGBTI people. The age of consent to sexual activity for heterosexual couples is 14, and when different ages of consent are applied to homosexual and heterosexual couples this constitutes discrimination on the basis of sexual orientation.

The conditions of detention are having a serious impact on Domoina Ranabosoa’s physical and mental health. For instance, she has complained about numerous flea bites, the poor quality of food and her fear of being targeted by her fellow female detainees as same-sex relationships are taboo in Madagascar. Given the current lockdown to prevent the spread of COVID-19, she is now unable to meet with her lawyer and her trial date was postponed to an undetermined date, meaning she could spend many more months awaiting trial in prison. This constitutes a violation of her right to a speedy trial, to stay in touch with her family, and to prepare her defence with her lawyer.

I urge you to immediately and unconditionally release Domoina Ranabosoa. Under international human rights law, pre-trial detention must be an exceptional measure used only as a last resort when there is substantial risk of flight, harm to others or interference with the evidence or investigation that cannot be allayed by other means. The presumption of release pending trial is based on the presumption of innocence, which is enshrined in international law. In addition, I call on you to repeal the discriminatory article 331 of the Penal Code which provides that consensual same-sex acts under the age of 21 is considered ‘corruption of minors’ and heavily punished.

I also urge you to ensure that the health and safety of your prison population is a priority in the fight against COVID-19, and consider granting conditional release to pre-trial detainees, and all detainees who do not pose a threat to public safety, as well as those whose health make them particularly vulnerable, such as older detainees and those in poor health. For the remaining detainees, if contact visits are restricted due to COVID-19 prevention measures, they must be replaced with other means of contact, for example by phone, emails or video calls.

Yours sincerely,

ADDITIONAL INFORMATION

On 10 March, 33-year old Domoina was sent to pre-trial detention in Madagascar's capital city's prison, Antanimora. As exposed in Amnesty International's 2018 report *'Punished for Being Poor: Excessive, Unjustified and Prolonged Pre-trial Detention in Madagascar'*, conditions of detention in Madagascar are inhumane, because of an excessive and prolonged use of pre-trial detention, which has in turn resulted in severe overcrowding across the country.

The charges brought against Domoina are that of 'corruption of minors under 21 years old', as she is accused of having a (consensual) relationship with her 19-year old girlfriend, Fyh. In Madagascar, the criminal code in its Article 331 punishes with up to five years imprisonment 'anyone who has committed an indecent or unnatural act with a minor of their own sex, less than 21 years old'. Fyh and Domoina had decided to move in together, a decision which Fyh's mother disapproved of, leading her to report Domoina to the police under this provision.

In an interview with Amnesty International, Domoina's girlfriend, Fyh, explained that she was raped by her father and grandfather, from the age 6 to 16, during which she had to undergo two abortions (also criminalized by Malagasy law). After meeting Domoina and sharing her problems with her, Fyh finally found the courage to sue her father, and this is when her relationship with her mother became strenuous, as her mother accused her of destroying the family unity. Fyh believes the lawsuit is driven by her mother seeking to take revenge by attacking her girlfriend.

Because of the threat of COVID-19, Domoina was told that she can no longer receive visits from her lawyer or relatives, and that her trial, initially scheduled for 10 April, has been postponed to an undetermined date. As exposed by Amnesty International's previous research, the government of Madagascar abusively uses pre-trial detention, constraining detainees to live in unhygienic and overcrowded conditions, and with the new threat of COVID-19, pre-trial detainees will have to wait for their trials for even longer periods, while risking falling sick.

PREFERRED LANGUAGE TO ADDRESS TARGET: [French; Malagasy]

You can also write in your own language.

PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL: [13 May 2020]

Please check with the Amnesty office in your country if you wish to send appeals after the deadline.

NAME AND PREFERRED PRONOUN: Domoina Ranabosoa (she/her)

LINK TO PREVIOUS UA: N/A