

Guidance Note 10

Improving prison health care

Summary

- All persons including detained persons have the right to life and prison health is a key human rights issue since prison conditions often endanger life.
- Governments have a duty of care to prisoners and must provide adequate health care in prisons equivalent to the standard provided in society generally.
- Prisoners generally come from the least healthy sections of the population and prisoners' health can be damaged by the conditions of imprisonment and the poor health provision.
- Mentally ill people are held in prison when they should be in hospital.
- Prison medical personnel have an important role in protecting prisoners' rights and preventing torture and ill-treatment.
- Ensuring independence for prison health care staff and building close links with public health services are important reforms.
- Introducing harm reduction methods to prevent infection and improving the physical environment in prisons can save many lives.
- Prison health reform interventions can be an effective way into wider prison reform.

“ All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

— *Article Ten, United Nations International Covenant on Civil and Political Rights*

Guidance Notes on Prison Reform

This guidance note is number ten in a series designed to give practical help to those developing and delivering prison reform projects. All the guidance notes:

- are set within the international human rights framework
- apply in a variety of cultural and political environments
- propose solutions that are likely to be sustainable in a variety of socio-economic situations and do not involve a significant increase in resources
- take account of the realities of prison management

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Prisons are bad for health

Prison populations contain an over-representation of members of the most marginalised groups in society, people with poor health and chronic untreated conditions, mental health problems, the vulnerable and those who engage in activities with high health risks such as injecting drugs and commercial sex work. Women in prison are particularly vulnerable as they come in disproportionate numbers from backgrounds of violence and abuse (see Guidance Note 14).

The health status of prisoners compared with the general population in England and Wales

Characteristic	General population	Prisoners
Suffer from three or more mental disorders	1% men, 0% women	44% sentenced men, 62% sentenced women
Drug use in previous year	13% men, 8% women	66% sentenced men, 55% sentenced women
Long-standing illness or disability	29% men aged 18-49	46% of sentenced men aged 18-49
Hepatitis	0.3% hepatitis B 0.4% hepatitis C	8% men, 12% women tested hepatitis B positive 9% men, 11% women tested hepatitis C positive

Adapted from *Reducing re-offending by ex-prisoners 2002*¹

The living conditions in most prisons of the world are unhealthy. Overcrowding, violence, lack of light and fresh air, poor food and infection-spreading activities such as tattooing and unprotected sex are common. Many prison systems have great difficulty dealing with the infrastructure problems, such as inadequate sewerage, that arise from many human beings confined in a small space with inadequate sanitary facilities. Some systems lack a regular water supply.

Malnourishment makes detainees more prone to infection. Prisons provide an ideal environment for the spread of TB, HIV and hepatitis B and C infections and rates of infection with TB, HIV and hepatitis are much higher than in the general population. The environment is high risk for prisoners and also for prison staff.

““ *Overcrowded prisons with infected inmates and with poor hygiene and sanitation are a dominant threat in the field of communicable diseases in the region. Prison health must be a priority.*

Statement from the 4th Baltic Sea States Summit on the Threat of Communicable Diseases 2003²

Many prison systems fail to provide even the most basic health care. Doctors are not available. Medicine cupboards are empty. Prison hospitals are overcrowded cells only slightly better than the rest of the prisoner accommodation. Access to a doctor and to medication are open to corruption.

Health care in prisons in most countries is provided by a specialist health service responsible to the prison administration and with little interest from the Ministry of Health. Such specialist health services are often criticised for low standards, isolation from the mainstream health services, and lack of independence.

Prison health care and human rights

The right to life

Many prisoners die in prison. Some die from natural causes and would have died whether imprisoned or not. But the deaths of many others are due to imprisonment itself. They die because of neglect of life-threatening conditions, or inadequate and delayed treatment for them. They die sometimes from violence inflicted by prison guards or other prisoners. Some contract a deadly disease because of the conditions of their imprisonment. Suffocation caused by overcrowding has been known to cause death in prisons. Some die at their own hands because they cannot bear the pains of imprisonment. Some die because there is no prison transport to take them to hospital. A prison sentence then becomes an unadjudicated death sentence.



Ironically, the main killer is not torture in jails, but is tuberculosis.

National Commission on Women, India 2001³

Reforming the delivery of prison health care is therefore one of the most important aspects of improving human rights compliance.



Mark Keenan⁴ was a paranoid schizophrenic who killed himself in the segregation unit of Exeter prison in England. He had been placed there after having been certified fit for punishment by the prison doctor. In his case the (European Court of Human Rights) found the UK to be in violation of Article 3 of the Convention, which prohibits inhuman and degrading treatment. Similar cases in France were that of Jean Mouisel,⁵ a prisoner with cancer who was offered inadequate medical treatment and was handcuffed to a hospital bed, and Albert Henaf,⁶ a 75- year old sentenced to 6 months imprisonment, who had a psychological disorder and was handcuffed on the way to prison and to his bed. The UK was also found to be in breach of Article 3 over its failure to provide adequate medical treatment to Judith McGlinchey,⁷ a heroin addict who died in prison whilst suffering withdrawal systems.

ICPS, *Prison Health and Public Health* 2004⁸

The duty of care

Once a state has deprived a person of liberty, that state owes a duty of care to the detained person. Even in times of economic difficulty or when the non-imprisoned population suffers from inadequate healthcare, detained people must be given proper care.



The CPT is aware that in periods of economic difficulties sacrifices have to be made, including in penitentiary establishments. However, regardless of the difficulties faced at any given time, the act of depriving a person of his liberty always entails a duty of care which calls for effective methods of prevention, screening, and treatment.

European Committee for the Prevention of Torture,
11th General Report on the CPT's activities 2001⁹

It is an important principle of prison health care that all necessary medical care and treatment should be provided and should be free of charge. Every prisoner should have a medical examination on admission. Prisoners have the right to seek a second medical opinion.

The prevention of torture

Prison health services also have a vital role in the prevention of torture. Medical staff have a particular role in the prevention of torture since they are likely to have prisoners with injuries referred to them. Such injuries may have resulted from the actions of other prisoners or prison staff or have been sustained before the prisoner arrived at the prison, perhaps whilst in police custody. It is important for medical staff to record such injuries and to pass information on to the relevant authorities when there is cause for concern.

The role of medical staff in prisons

Prison medical staff face difficulties and dilemmas in working with patients who are captives in a setting often hidden away from the outside world. The prison authorities may place security concerns above health concerns even when a prisoner's life is at risk.

The prison authorities may feel the doctors have a duty to prescribe calming drugs for management reasons, when the medical problems suggest a different solution. A suicidal prisoner may be ignored until it is too late on the basis that the prisoner is just 'attention-seeking'. Prison staff may feel that medical confidentiality is quite inappropriate and that they should know which prisoners are HIV positive and what prisoners are saying to the medical personnel. Prison staff may want to transfer a prisoner to another prison for disciplinary reasons when the prisoner is in the middle of some medical treatment not available at the next prison or withhold medicine as a punishment.

“ Freedom of consent and respect for confidentiality are fundamental rights of the individual. They are also essential to the atmosphere of trust which is a necessary part of the doctor/patient relationship, especially in prisons, where a prisoner cannot freely choose his own doctor.

European Committee for the Prevention of Torture, 3rd General Report of the CPT 1993¹⁰

The prison authorities may require doctors to certify causes of death that are inaccurate in order to cover-up illegalities at the prison. It may be suggested that prisoners constitute a useful population for drug trials or other medical experiments.

The international requirements

Medical personnel working in prison are required to:

- provide health care to prisoners on the same basis as to other citizens
- where there is a conflict, to put the interests of the prisoner patient before the interests of the prison management
- respect medical confidentiality
- have no involvement with acts which could constitute or lead to torture or inhuman or degrading treatment
- never use prisoners for experiments unless they are certain they have informed consent

Prisoners being treated in civilian hospitals should never be attached to beds or furniture. Pregnant women should always go to outside hospitals to have their babies.

Improving prison health care

Improving prison health care is important in itself and usually necessary for prisons to meet basic human rights requirements. Health care reform is also a useful way of introducing wider reforms. Prison living conditions may be an abuse of human rights in themselves because of the shortage of space, air, light, fresh water and nutritious food. They may also be so injurious to health that change can be justified on health grounds even when the human rights argument might be less politically compelling.

Prison systems that are wary of admitting organisations from civil society may accept the need when the organisation provides, for example, services to HIV positive prisoners or training on risk avoidance for prison staff. Prison systems that are isolated from the rest of the government machine may initiate a more integrated approach by working with the Ministry of Health on continuity of treatment for released prisoners with infectious diseases. Concern about overcrowding and the diseases that are incubating can lead to political and public support for a reduction in the prison population.

Improving the service

The standard of prison health care can be improved by increasing the independence of the prison medical staff. Measures to do this include:

Linking prison health more closely to public health

“ Member governments are recommended to develop close working links between the Ministry of Health and the ministry responsible for the penitentiary system so as to ensure high standards of treatment for detainees, protection for personnel, joint training of professionals in modern standards of disease control, high levels of professionalism amongst penitentiary medical personnel, continuity of treatment between the penitentiary and outside society, and unification of statistics.

WHO, *The Moscow Declaration on Prison Health as a part of Public Health* 2003¹¹

It is widely regarded as a reform measure to move responsibility for prison health from the Ministry of Justice or the prison authorities to the Ministry of Health. Where this is not possible moves to strengthen the independence of medical services within the prison hierarchy are an improvement. Prison medical staff for instance can have their own director within the prison administration at a very senior level.

Integrating prison and public health services is likely to have the following benefits:

- medical staff who are not in the employ of the prison authorities and who owe their allegiance to the public health service will find it easier to make independent judgements and always put the needs of the patient before institutional requirements
- independent medical staff will be able to argue strongly for measures to be taken that improve public health, such as harm reduction measures, even when these cause difficulty within the environment of a prison
- prisoners are more likely to trust medical staff who are employed by the health authorities rather than the prison authorities

Raising levels of pay and improving working conditions

Prison medical work is often regarded as very unattractive because of the low pay, the working conditions and the workload.

Improving the training and status of prison medical staff

Training carried out alongside public health service employees can be very beneficial in preventing prison medical staff from succumbing to the prison culture and letting it swamp their medical ethos. All training of prison medical personnel should include a consideration of the ethical aspects of working in a closed environment.

Reducing the transmission of infectious diseases

Infectious diseases have always flourished in prisons. The infection rates for TB, HIV and hepatitis B and C can be up to a hundred times higher in prisons than in the outside community. Many aspects of prison life tend to increase the risk of infection. Prisoners often get themselves tattooed by other prisoners. Prisoners are often drug-users and share infected needles.

Measures to reduce the spread of deadly infectious diseases include:

Letting in more light and air

In many pre-trial prisons in the countries of the former Soviet Union the law required that the windows were covered with heavy shutters which prevented prisoners communicating with other prisoners involved in the same case. Many countries have removed the shutters and introduced other window covering methods to improve access to sunlight and increase the amount of fresh air in the large, overcrowded cells. Fans and ultra-violet lights are sometimes used.

Reducing harm by issuing clean needles and bleach

Needle exchange in prisons is very controversial. Prisons often do not want to acknowledge that drug use takes place in spite of their security measures. They fear that needles will be used as weapons against personnel. They also fear that it will encourage increased drug use.

“ *Needle exchange programs have been shown to be feasible in prison, as demonstrated by the satisfactory results of the pilot program implemented since 1997... That pilot program demonstrated the following salient facts:*

- *needle exchange programs, which have already been shown to be effective in the broader community, can be replicated in prisons without causing distortions or direct problems in terms of prison rules*
- *the inclusion of information activities in a needle exchange program helps to reduce practices associated with higher risk*

The availability of sterilised needles does not increase injecting drug use or general drug use

Ministry of the Interior SubDirectorate for Prison Health, Madrid 2002

Bleach is more readily available in prisons than needle exchange and providing it often causes less controversy.

Reducing harm by providing access to condoms

Sexual activity takes place in prisons, sometime forced and sometimes consensual, although prison staff often prefer to say that it does not. To prevent the transmission of infection condoms are provided in some prison systems. In many countries taboos make this difficult. One acceptable way of dealing with these taboos is to incorporate condom distribution into the activities of bona fide civil society organisations working in prisons for the welfare of prisoners. Where private family visits are part of the system, condoms can be made discretely available for the family visits.

Education of staff and prisoners on health risks and infections

Many prison staff and prisoners are very ignorant of the processes of transmission of infections and may believe many myths about how conditions such as HIV are transmitted. Educational programmes with booklets, workshops by specialist civil society organisations and talks by medical staff are all ways that have been adopted.

“ *The prison service is responsible under international law for the health and safety of its staff. Protection of staff from infectious diseases is a duty and makes good management sense. A system which is phobic about AIDS will not function adequately.*

WHO, *HIV in Prisons* 2001¹²

The treatment of HIV positive prisoners

In many prison systems of the world HIV is regarded as a highly dangerous threat and measures are taken to deal with it that are in themselves an abuse of human rights.

“ *[T]he situation [of HIV/AIDS in prisons] is an urgent one. It involves the rights to health, security of person, equality before the law and freedom from inhuman and degrading treatment. It must be urgently addressed for the sake of the health, rights and dignity of prisoners; for the sake of the health and safety of the prison staff; and for the sake of the communities from which the prisoners come and to which they return.*

UNAIDS, *Prisons and AIDS: UNAIDS point of view* 1997¹³

Infected prisoners are often isolated, sometimes in places where no contact with other prisoners or staff can take place, and in some systems all prisoners are tested on arrival for HIV. The separation of HIV infected prisoners and compulsory testing are both regarded as unacceptable by world medical and human rights bodies.

The treatment of mentally ill people in prison

In many countries mentally ill people are held in prison rather than in hospital, sometimes held in padded cells or in restraints. Amongst prisoners there is a high incidence of psychiatric symptoms. The experience of imprisonment can also cause mental disturbance in prisoners. Suicide rates in prisons can be disproportionately high.

Dying in prison

As sentence lengths increase and more life sentences which mean life in prison are passed, more prisoners will die in prison. Death rates in prison from AIDS-related illness are also high. Many countries pardon terminally ill prisoners so that they can die at home or in some other environment than a prison.

Humanitarian interventions

Prison reform projects often take the form of providing medicines or medical equipment to prisons in dire need. Intervention can be very beneficial but can also pose a serious threat. Some infectious diseases, such as TB, can be easily cured by the administration of antibiotics but only under very strict conditions. Medicines have to be taken over a long period, in the right mixture and at the right time, under supervision. The provision of medicines when the infrastructure is not in place can lead to a strengthening of the TB strain and the creation of a form of TB, multi-drug resistant TB, which is very dangerous, infectious and difficult to cure. Projects that take complex treatments into one prison as a result of an approach from individuals there can also be dangerous as prisoners may be transferred to another prison where the treatment being given is not available. Medical interventions normally need to operate across a whole system.

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