Introduction

Societies around the world continue to grapple with profound philosophical and practical questions surrounding crime and punishment, including the most effective ways in which to address the living conditions and treatment of prisoners. For intuitively obvious reasons, prisoners frequently do not generate significant empathy from many segments of society; indeed, visceral responses for increasing the severity of prison sentences for violent offenders may be a common refrain. Ultimately, though, national governments, international organizations, including the World Health Organization (WHO), health authorities and providers, and civil society representatives must effectively confront the reality that the overwhelming majority of prisoners will be released back into society and their health status both in and out of prison may become a grave public health issue. Delegates to the World Health Organization (WHO) need to ensure that all governments adhere to broadly, and wherever applicable, universal, minimum standards of treatment of prisoners.

Scale of the Problem

Recent estimates indicate that there are approximately 10.25 million people currently incarcerated or otherwise legally classified as prisoners globally.\(^1\) UN member states employ a vast array of correctional, legal, and rehabilitative systems, making it difficult to fully harmonize minimum standards of care and treatment. Nevertheless, UN member states have met several times to establish and articulate minimum standards for treatment of prisoners, including in 1957 and 1977. There have also been several meetings of the United Nations open-ended Intergovernmental Expert Group on the revision of the Standard Minimum Rules (SMR) for the Treatment of Prisoners, with the fourth, and latest, meeting occurring from March 2-5, 2015 in Cape Town, South Africa. In May 2015, the UN General Assembly Third Committee adopted these revised standard minimum rules (SMR) with the addition of the “Mandela Rule,” named in honor of former South African president and Nobel Peace Prize recipient Nelson Mandela.

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Addressing the Health Needs of the Prisoner Population

Prisons are by their nature often grim environments and these settings, combined with the lack of freedom, and in many cases, transient, volatile, and violent, segments of the population, both create and exacerbate mental and physical impairments of health. Ensuring proper care for prisoners, including the specific health needs of female prisoners, needs to become an absolute priority for countries, even when providing additional funding and resources for prison health services is politically unpopular. In recent decades, outbreaks of tuberculosis (TB), including multi drug-resistant tuberculosis (MDRTB), as well as transmission of HIV/AIDS in prisons have turned into serious threats to public health in countries such as Kyrgyzstan\(^2\) and Mexico\(^3\), respectively.

A critical but often overlooked dimension of improving health in prisons is the need to view and treat prisoners as patients. Prisoners “automatically lose the social component of health, including the loss of control of a patient’s circumstances, the loss of family and familiar social support and a lack of information and familiarity with their surroundings.”\(^4\) While different countries emphasize divergent elements and techniques for correcting, rehabilitating, and punishing prisoners, a consistent focus on ensuring healthy environments and appropriate clinical relationships is essential for both optimal health and behavioral outcomes. The World Health Organization (WHO) asserts that “one method of ensuring that prisoners have access to an appropriate quality of health care is by providing close links between prison-administered health services and public health.”\(^5\) Seeking to divorce prison health systems from the overall public health systems will ultimately be extremely costly and cumbersome; furthermore, as the vast majority of prisoners will eventually be released and returned to society, clear divisions between prison health systems and public health systems will often be ephemeral.

Prison overcrowding is an all too common yet serious problem and threat to health. In September 2015, South Africa’s Pollsmoor prison evacuated 4,000 prisoners after 2 prisoners died from leptospirosis bacteria spread by rat urine; the Police and Prison Civil Rights Union estimated that the prison was operating at 300% of its capacity at the time of these prisoner deaths.\(^6\) The prisons in Pernambuco State in Brazil are massively overcrowded, featuring rooms with 6 bunks for 60 prisoners and exhibiting infection rates of 42 times the national average for HIV/AIDS and 100 times for tuberculosis.\(^7\) Parliaments in France\(^8\) and Italy have recently passed laws to reduce prison overcrowding and both the federal and state governments, including

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\(^{4}\) Andrew Fraser, “Primary health care in prisons” from Lars Moller, Heino Stöver, Ralf Jürgens, Alex Gatherer, and Haik Nikogosian, eds., Health in prisons: A WHO guide to the essentials in prison health 2007 p. 22.


California, in the United States have sought to reduce prison overcrowding. While many countries are confronting issues of prison overcrowding, one countering trend “is the increasing tendency for courts to impose very long sentences, which increases the possibility that old prisoners may die in prison.” As with the majority of the global population, health issues and concerns frequently increase and worsen with age.

The health needs of aging and elderly prisoners comprise one of the special and/or vulnerable populations in prisons. Governments and prison authorities must also remain cognizant of their responsibilities to protect women, racial/ethnic minorities, prisoners with disabilities, prisoners who are lesbian, gay, bisexual, and transgender (LGBT), and prisoners who are likely targets for violence because of the crimes for which they are currently incarcerated. The UN Human Rights Council’s Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, reported in August 2013 that “the lack of reasonable accommodation may increase the risk of exposure to neglect, violence, abuse and ill-treatment and that if such discriminatory treatment inflicts severe pain or suffering, it may constitute torture or other form of ill-treatment.”

Persistent threats and acts of violence in prisons imperil the health of prisoners on a daily basis. Rival criminal gangs often continue their feuds within prisons, with brawls, murders, and riots as not uncommon results. Interpersonal arguments and confrontations frequently turn violent as well, such as the recent stabbing of an inmate in Auckland’s Paremomo Prison. Beatings and violence against prisoners by prison staff and law enforcement personnel also damage the health of inmates. Prison fires have also killed large numbers of inmates in several high-profile instances linked to potential gang violence and/or prison staff complicity in Central America. To prevent further violence against prisoners, national governments, justice systems, law enforcement personnel, and civil society representatives must ensure that violent acts are effectively investigated and prosecuted, not disregarded because the victims are prisoners.

Female prisoners confront the same health problems as male prisoners but they also experience gender-specific health challenges and conditions, including pregnancy. In 2008, Scottish prison authorities had to address instances of prison guards handcuffing pregnant prisoners during hospital visits; Britain’s then Labour government also released public statements that handcuffing pregnant prisoners contravened British penal codes. Pregnant prisoners also need to be provided with adequate pre and post-natal care as well as the food, clothing, and requisite pediatric health services for healthy children. Prison authorities must also

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10 Juan E. Méndez, “Torture and other cruel, inhuman or degrading treatment or punishment: Note by the Secretary-General” A/68/295 August 9, 2013 p. 18.
consider the best interests of the children and whether or not the prison facilities offer a safe and nurturing environment for the children of prisoners.

Preserving the dignity of prisoners, including when requiring them to undress and/or to submit to intrusive searches, and protecting prisoners from rape and sexual assault from other prisoners and prison staff is essential to preventing the spread of sexually transmitted diseases (STDs), maintaining positive mental health, preventing the establishment of cultures of impunity and reprisal violence. When addressing the mental health needs of prisoners, prisons often lack treatment facilities and trained personnel, particularly given the much greater incidences of mental health impairments and illnesses; in 2009, the British Office of National Statistics calculated that approximately 90% of prisoners in England and Wales suffered from some form of mental illness.\(^\text{15}\) Brutality by prison staff, including guards and police officers, frequently send prisoners to the hospital, exacerbate existing mental health problems, and not infrequently end in the deaths of inmates.\(^\text{16}\) The World Health Organization (WHO) report *Health in prisons* (2007) cites research that indicates that “89% of all prisoners have depressive symptoms and 74% have stress-related somatic symptoms.”\(^\text{17}\) While many prisoners already experience forms of mental health problems before entering prison, the combination of overcrowding, violence from other inmates and prison staff, feelings of guilt and/or remorse for offenses committed, time spent away from family and friends, including isolation as a punishment, and fears about the eventual return to the outside world, contributes to further deterioration of many prisoners’ mental states. Prison systems around the world will need to increase the resources devoted to maintaining positive mental health states and to effectively treating prisoners experiencing more severe mental health problems. While “the presence of a psychologist, psychiatrist and nurses does not guarantee good mental health,”\(^\text{18}\) their absence in prison environments is clearly associated with lower overall mental health and higher rates of psychotic episodes. As a basic tenet of human rights as well as the clinical status of prisoners, “regardless of the security issues, health care personnel should enjoy unrestricted access at any time and any place to all detainees, including those under disciplinary measures.”\(^\text{19}\) Correctional authorities and prison staff must always bear in mind that delaying and/or preventing treatment of prisoners’ injuries and other health problems will lead to deteriorating health outcomes for prisoners, prison staff, and society in general.

\(^{15}\) *BBC News*, “Failing mental health” November 10, 2009.


\(^{17}\) Eric Blaauw and Hjalmar J.C. van Marle, “Mental health in prisons” from Lars Møller, Heino Stöver, Ralf Jürgens, Alex Gatherer, and Haik Nikogosian, eds., *Health in prisons: A WHO guide to the essentials in prison health* 2007 p. 133.


Addressing the Health Needs of the Prison Staff Population

Prison staff are also frequently exposed to bacteria, pathogens, and a wide panoply of threats to both mental and physical health. With prison staff frequently working in close quarters with prisoners, communicable diseases, including various strains of tuberculosis (TB) and multidrug-resistant tuberculosis (MDRTB), and pneumonia are a frequent threat. Physical violence, including armed assaults and murder, by prisoners against prison staff endanger the welfare of all, both prisoners and prisons staff. The toll on mental health of prison staff is often quite extensive, too; depression, exhaustion, mental breakdowns, substance abuse and suicide are all too common mental health hazards for prison staff. National governments need to improve their efforts at protecting prison staff and providing their staff with the appropriate compensation and services, including health insurance and psychiatric care.

UN System Actions

The UN System has sought to promote appropriate and humane treatment of prisoners for at least the past 60 years. In 2011, acting upon a recommendation from the General Assembly, the UN Office on Drugs and Crime’s (UNODC) Commission on Crime Prevention and Punishment established the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners. The Expert met twice in 2012, in Vienna and Buenos Aires, and again in 2014 in Vienna, and established nine thematic areas for emphasis and updated standards: respect for prisoners’ dignity; medical and health services; disciplinary action and punishment; investigation of all deaths in custody; protection and special needs of vulnerable groups; access to legal representation; complaints and independent inspection; replacement outdated technology; and training of prison staff to ensure the dignity, health, and rights of all prisoners.

The Expert Group on the Standard Minimum Rules for the Treatment of Prisoners held its fourth meeting in Cape Town, South Africa in early March 2015, with 41 countries participating. The United Nations System was represented through the Office of the High Commissioner for Human Rights (OCHR), the UN Office on Drugs and Crime (UNODC), the International Scientific and Professional Advisory Council, the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, and the World Health Organization (Regional Office for Europe). The International Committee of the Red Cross (ICRC), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Amnesty International (AI), Human Rights Watch (HRW), the International Penal and Penitentiary Foundation (IPPF), and the Open Society Institute also participated in the most recent meeting in Cape Town. The assembled delegates reaffirmed critical elements of health care access and services for prisoners that are less likely to be honored and upheld in contemporary societies, including that “the provision of health care for prisoners is a State responsibility” and that “clinical decisions may only be taken by the responsible health-care professionals and may not

20 The participating countries were: Argentina, Bahrain, Belarus, Botswana, Brazil, Canada, China (People’s Republic), Finland, France, Georgia, Germany, India, Indonesia, Iran, Iraq, Israel, Italy, Japan, Jordan, Lebanon, Mozambique, Nigeria, Norway, Paraguay, Poland, Qatar, Russia, Senegal, South Africa, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Syria, Thailand, Turkey, United Kingdom, Uruguay, United States, and Zambia.
be overruled or ignored by non-medical prison staff.”  

Further areas of emphasis during the third meeting of the Expert Group included the importance of respecting the rights of prisoners when conducting searches of their cells and their bodies, limiting the use of solitary confinement to “exceptional cases as a last resort, for as short a time as possible and subject to independent review,” and the need for prisons to properly update and maintain confidential prisoner health records.  

An additional area of fundamental concern for the UN System, national governments, health care professionals, prisoners, and civil society representative and non-governmental organizations (NGOs) is the continued emphasis on preventing torture and other cruel, inhuman or degrading treatment or punishment.

Conclusion

Ensuring that prisoners and prison staff are always treated with proper care and dignity is not only necessary from legal and moral considerations but it is wise and ultimately cost-effective policy. Delegates to the World Health Organization (WHO) ultimately need to evaluate whether existing minimum standards are sufficient to induce states, private prison providers and civil society representatives to address the considerable problems currently confronting millions of prisoners and their attendant societies. Maintaining the clinical relationship between prisoners and health providers is the true foundation of ensuring that prisons protect and preserve the health of prisoners and prison staff and the well-being of their larger societies. Concerns for treating prisoners with compassion and dignity, ensuring adequate, if not optimal, health outcomes, and managing the frequently scarce fiscal resources devoted to prison health systems are all relevant considerations for judicial and correctional authorities.

Guiding Questions:

What are the most significant correctional and/or rehabilitative problems facing your country?  
What recent legislative and policy initiatives has your government adopted and/or implemented to redress these issues? How successful have these laws and policies been?

What does your government require in terms of trained medical personnel at all prison facilities?  
Does your government and/or private prison operators appropriate enough money to ensure that all prisons have uninterrupted access to competent and trained medical staff?

What does your country do to ensure that all prisoners and prison staff have adequate and regular access to psychiatric services? Do your country’s laws and policies require this access and does your government appropriate enough money to comply with the appropriate guidelines and/or laws?

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Did your country send delegates to participate in the most recent meeting of the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners? If not, does your country plan to participate in upcoming meetings?

How might the UN System most effectively ensure that appropriate and humane minimum standards of treatment of prisoners are consistently observed and provided?

**Resolutions and UN System Reports**


Juan E. Méndez, “Torture and other cruel, inhuman or degrading treatment or punishment: Note by the Secretary-General” A/68/295 August 9, 2013.
