

**Forum:** Human Rights Committee

**Issue:** Establishing measures to provide effective healthcare in penal institutions

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## Introduction

Referring to the constitution of the World Health Organization (WHO), the highest attainable standard of health is a fundamental right which every human being is entitled to. The right to health includes access to timely, acceptable and affordable health care of appropriate quality regardless of the situation which an individual is in. Nonetheless, an ongoing challenge that public health encounters is to provide services to those who are in need, especially those who are difficult to reach. It is a sad reality of life that, a high proportion of those with multiple health problems are confined in prisons, with access to limited healthcare, if they are lucky enough to receive any.

Often times prisons are anticipated as a breeding ground for epidemic diseases and injustice. Prevalence of chronic illnesses, including mental illnesses, and access to health care among inmates are areas of struggle observed in many penal institutions. Primary health care services in penal institutions must be provided with staff, resources and facilities of at least the same standard as those available in the community, as it is evident that quality prison healthcare creates considerable benefits for the society as a whole. The principle of equivalence is an important measure of the adequacy of health care provision in places of detention. In practice, the health care offered to many prisoners is at a far inferior standard to that available outside in the community. Good governance for prison health is essential and undoubtedly requires a well-planned national strategy for developing prison health care policies in order to reach the disproportionate number of those requiring health assistance.

## Definition of Key Terms

**Penal institutions:** “An institution used to house or detain a person who is convicted of a crime or is under a lawful arrest. “ (Webster, Noah. New Collegiate Dictionary.) Simply, it is an institution where people are confined for punishment. Prisons, jails, correctional facilities or any other type of detention centers are examples of penal institutions.

**Prisoner:** “A person who is confined in prison or kept in custody, as the result of a legal process.“ (“Dictionary.com.”)

**Epidemic Diseases:** Infectious diseases that develop and spread rapidly among many people are referred as epidemic diseases. Prisons tend to serve as a breeding ground for HIV/AIDS, tuberculosis

(TB) and other various infectious diseases.

**Tuberculosis (TB):** Tuberculosis is a contagious bacterial infection which usually attacks the lungs and is passed through the air. Although tuberculosis is curable and preventable, it still is listed amongst the most deadly diseases. A common treatment for tuberculosis is the consumption of antibiotics.

**HIV/AIDS:** Human immunodeficiency virus, often referred as HIV, attacks a body's immune system making it harder to resist diseases and infections. Acquired Immune Deficiency Syndrome (AIDS) is a syndrome caused by the HIV virus at the last stage of the infection. At this stage the body is incapable of defending itself and may develop various diseases, infections and if left untreated, death. Although the scientific research in the area still continues and advancements are being made each day, the virus and the syndrome are both incurable at the moment. However past cases have proven that with the proper treatment and moral support HIV patients can live long and healthy lives.

**The human right to health:** Being a fundamental part of human rights, the right to health was first mentioned in the 1946 Constitution of the World Health Organization (WHO), whose preamble defines health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity" (WHO). The preamble further states that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition" (WHO). The 25th article of the 1948 Universal Declaration of Human Rights the human right to health as: "(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. "

## General Overview

International law acknowledges the right of each individual, including people deprived of their liberty, and as a result ensures to provide everyone the human right of the highest attainable standard of physical and mental health. Unfortunately the mentioned rights in theory are being disregarded in practice. Health needs of numerous prisoners with existing healthcare conditions being ignored or neglected can be provided as an example. In other occasions, considerable amount of prisoners develop health problems whilst in prison due to the unhealthy and unhygienic prison conditions and poor control of infectious diseases. Health protection in prisons is a serious public health issue as the vast majority of people inhabiting in penal institutions return to the community at the end of their sentence in unhealthy conditions. Prison health services are isolated from the other public health and social services due to the fact that the importance of the issue isn't fully emphasized and understood by Member States.

As outlined by the World Health Organization (WHO) there are two compelling reasons for

providing health care in prisons. The reality is that the untreated prisoners carrying severe diseases and infections will eventually return to the community posing a threat to the community and adding to the burden of disease to the society. The second reason is that reducing health inequalities is a significant contribution to health for all. There is a strong link between prison health, public health in general and social justice which must be fully understood. WHO further expresses this idea as: "A prisoner's admission to prison can be the first time they have had a settled life with adequate nutrition and a chance to reduce their vulnerability to ill health and social failure. Prison health care can play an important role in reducing health inequalities. All this underlines the need for governments to give a degree of priority to health in prisons" (Enggist).

Prisons are breeding ground of severe diseases including HIV/AIDS and tuberculosis (TB). Researches done by the WHO reveal that TB can be seen up to 81 times higher in prisons than among the general population. Studies have further shown that in most countries in Europe and in Central Asia, rates of HIV infection are much higher in prisons than outside due to the high rates of drug dependency, unprotected sex (consensual or rape), poor standards of medical hygiene and dangerous practices such as needle sharing. "In the European Union, regular drug use or dependence prior to imprisonment ranges between 16% and 79%" (Prisons and Drugs in Europe: The Problem and Responses). TB in prisons is also commonly associated with HIV co-infection. Contextual factors such as overcrowding, poor nutrition, limited access to water or delays in diagnosis check-ups of the prisoners contribute to higher transmission rates of diseases. The latest data revealed that "22 national prison systems in the USA hold more than double their capacity, with a further 27 countries operating at 150% – 200%" (Penal Reform International). In order to combat the infectious diseases every prison health care service should launch a comprehensive vaccination programme for prisoners and prison staff. Substance abuse and addiction are also widespread in penal institutions. Addressing the needs of prisoners with drug problems is a vital step in order to successfully rehabilitate these individuals and earn them back to the society. A successful rehabilitation would prevent the prisoners from reoffending and contribute to public health and security of a nation.

"Prison populations have a disproportionately high rate of people suffering with mental health or behavioural problems many pre-dating prison" (Penal Reform International). At least 10-15% of prisoners in Europe have a significant mental illness such as depression and anxiety. Majority of the prisoners are worsening when inside due to poor prison conditions, bullying, marginalization, stigma and discrimination and lack of mental care which all harm the psychological well-being of a prisoner. According to the revised UN Standard Minimum Rules for the Treatment of Prisoners (2015), people with severe mental health issues should receive adequate treatment, rather than being imprisoned. Keeping in mind that the people with mental health problems are detained, prison management should focus on the prisoner's' mental well-being and recovery. Addressing the mental health problems of the prisoners will not only improve the life quality of the individual prisoner and prison population in general, but will also make the lives of the people working in prisons easier.

While finding measures to provide effective healthcare to those who are deprived of their liberty women prisoners must be particularly looked at. Reproductive health care, pre- and post-natal healthcare of women should not be disregarded in this process. It is a tragic reality of life that women in prison are unjustifiably more likely to be victims of domestic or sexual abuse, to experience poor mental health, to attempt suicide and self-harm and to have alcohol and drug dependency problems. WHO estimates that at least 75% of women entering European prisons are facing problems with drug and alcohol use. Furthermore “ women prisoners surveyed by Penal Reform International (PRI) in Central Asia and the South Caucasus (2014) said that what they needed most to help them build a new life on release was health treatment” (Penal Reform International). Researches also indicate that children are far more likely to suffer mentally and physically in prisons and are far more likely to attempt suicide than their peers outside prison. “Children in prison in particular may struggle to follow staff instructions and suffer disciplinary measures as a result” (Penal Reform International).

## Major Parties Involved and Their Views

**World Health Organization (WHO):** WHO is a specialized agency of the United Nations that works in the area of international public health. Being a member of the United Nations Development Group, WHO was established on 7 April 1948, in Geneva, Switzerland. WHO plays a leading role in the eradication of communicable diseases, in particular HIV/AIDS, ebola, malaria, tuberculosis; providing essential healthcare. WHO is also responsible from the publication of the annual World Health Report which is published on the World Health Day and includes the worldwide health survey and the enhancements made in that year.

WHO's “goal is to build a better, healthier future for people all over the world. Working through offices in more than 150 countries, WHO staff work side by side with governments and other partners to ensure the highest attainable level of health for all people. Together we strive to combat diseases – infectious diseases like influenza and HIV and noncommunicable ones like cancer and heart disease. We help mothers and children survive and thrive so they can look forward to a healthy old age. We ensure the safety of the air people breathe, the food they eat, the water they drink – and the medicines and vaccines they need.” (“Who We Are, What We Do.” *World Health Organization.* )

WHO is the main agency under the UN who has worked in the area. Simply, WHO works to detect human rights violations within prisons and further offers solutions to member states by publishing reports which emphasize and reinforce the human rights of prisoners, mainly right to health.

### **European Union (EU) Member States:**

The prison health care services in EU Member States is either administered by either the justice ministry, health ministry of interior ministry. In the recent years some member states divided the roles of prison health care between the health ministries and the ministry of justice in order to increase the effectiveness and efficiency of the prison health and to achieve sustainable high standards in both prison health and

security.

WHO has written a report on the governance of prison health as requested by the European Network on Prison and Health. The content which was developed by an expert group on the topic includes recommendations and positions regarding prison health of the Council of Europe. In addition to the 47 Member States that are also members of the Council of Europe, the WHO European Region includes the following six Member States: Israel, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan. The new European policy for health, Health 2020 aims to enhance the management of public health system which will have long term effects such as:

- *“lowering health risks and improved health protection in prisons,*
- *improving health of prisoners*
- *improving performance of national health systems*
- *improving health of deprived communities*
- *improving public health of the whole community,*
- *improving integration of prisoners into society on release,*
- *lowering rates of reoffending and reincarceration and reduction of the size of the prison population,*
- *increasing governmental credibility based on increased efforts to protect human rights and reduce health inequalities.” (Health 2020.)*

**Penal Reform International:** “Penal Reform International (PRI) is an independent non-governmental organisation that develops and promotes fair, effective and proportionate responses to criminal justice problems worldwide.” (“About Us.” *Penal Reform International*) PRI was involved in the process of evaluating and revising the UN standard minimum rules for the treatment of prisoners. PRI works closely with the UN and non-governmental organizations in order to ensure that the rights of the prisoners are being protected.

### **African Union:**

Although Africa is a huge continent with many different countries, different political situations and different wealth levels; statistics reveal that conditions in African prisons are more life threatening and is a potential health hazard to both the prison population and the society compared to other continents and countries. Having high mortality rates and morbidity rates, African prisons in general encounter many structural problems. The lack of resources dedicated by the government, untrained prison personnel who are short in numbers, lack of drugs and equipment, lack of access to other facilities, lack of privacy and adequate record keeping are some of the structural problems observed in African prisons. For example if we look at the situation in Zambia, “Zambia’s policy of free universal HIV treatment and wide availability of tuberculosis drugs show an impressive commitment to public health. But an important group has been left out in Zambia’s fight against these diseases-prisoners. And right now, conditions inside Zambia’s prisons are a threat to all Zambians as diseases move quickly into and out of prisons” (“Good Prisoner Health Is

Good Public Health."). Over the last six months, Human Rights Watch, the AIDS and Rights Alliance for Southern Africa, and the Prisons Care and Counseling Association are working in collaboration with Zambia Prisons Service to research prison health conditions and human rights violations within prisons.

African Union was established on the 25th of May 1963 by 32 African States, with the common will to have a peaceful, prosperous and an integrated Africa. African Union Department of Social Affairs recently launched the second Africa Health Strategy for 2016-2030. The Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa by the African Commission on Human and People’s rights thoroughly outlines the health problems seen in African prisons.

## Timeline of Events

<b>1957</b>	UN Standard Minimum Rules for the Treatment of Prisoners were initially adopted.
<b>24 October 2003</b>	WHO declares prison health as a part of public health.
<b>2010</b>	The Madrid Recommendation: Health protection in prisons as an essential part of public health.
<b>17 December 2015</b>	The UN Standard of Minimum Rules for the Treatment of Prisoners was revised and adopted by the UN General Assembly. The revised rules were named in honour of Nelson Mandela.

## Relevant UN Documents

**UN Standard Minimum Rules for the Treatment of Prisoners (SMR), 1957:** The international standard for the treatment of prisoners was initially adopted by the first UN Congress on the Prevention of Crime and the Treatment of Offenders in 1955, and was later approved by the UN Economic and Social Council in 1957. The requirements for the medical services in prisons are outlined in the SMRs. "The Standard Minimum Rules are often regarded by states as the primary – if not only – source of standards relating to treatment in detention, and are the key framework used by monitoring and inspection mechanisms in assessing the treatment of prisoners".

**Nelson Mandela Rules, 17 December 2015, (UN-Doc A/Res/70/175):** Being named after Nelson Mandela, the revised SMRs were adopted unanimously by the UN General Assembly. "The revised Rules are now known as the ‘Nelson Mandela Rules’ to honour the legacy of the late President of South Africa, ‘who spent 27 years in prison in the course of his struggle for global human rights, equality, democracy

and the promotion of a culture of peace.’ Healthcare and medical services in prisons were one of the focus areas in the process of revision. The new set of rules emphasize the fact that healthcare of prisoners is under the state’s responsibility and should be of an equal standard to that available in the community. It is also stated that the health care provided in prisons must be administered by the public health of each country. The Nelson Mandela Rules provide a detailed assistance on healthcare in prison and on the role of healthcare staff.

- United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)
- UN Rules for the Protection of Juveniles deprived of their Liberty (‘the Havana Rules’)
- The UN Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1982
- WHO Declaration on Prison Health as Part of Public Health (adopted in Moscow on 24 October 2003)
- World Health Organization Guide to the Essentials in Prison Health
- The Madrid Recommendation: Health protection in prisons as an essential part of public health, Copenhagen, WHO, 2010
- Trecín Statement on Prisons and Mental Health, WHO, 2008
- Council of Europe, Recommendation No. R (98) 7 of the committee of ministers to the member states concerning the ethical and organizational aspects of health care in prisons
- Council of Europe, Parliamentary Assembly, Recommendation 1080 (1988) on a Co-ordinated European Health Policy to Prevent the Spread of AIDS in Prisons (June 30, 1988)

## **Evaluation of Previous Attempts to Resolve the Issue**

As each country has different public health and prison policies previous attempts to solve the issue were on a national level and had impacts on the country itself.

The Standard Minimum Rules for the treatment of prisoners dictates that there should be a qualified medical officer having some knowledge of psychiatry at each institution. Providing psychiatric services and dental care to prisoners are also mandatory as outlined by the SMRs. Transfer of the sick prisoners to hospitals, prenatal and postnatal care, provision of nurses to newborn babies, daily check-ups on food quality, sanitation, heating, lighting, bedding, clothing, heating and ventilation of the institution are listed amongst the requirements of the treatment of the prisoners. With the establishment of these set of laws there had been major developments in human rights and criminal justice.

## Possible Solutions

The human right to health guarantees a system of equal and effective public health for all. The human right to health seems effective in theory but when it comes to its application the medical needs of many individuals are not being fulfilled. The guidelines of an efficient health care system were determined by the WHO as: hospitals, clinics, medicines, and doctors' services must be accessible, available, acceptable, and of good quality for everyone, on an equitable basis, where and when needed. It is under each government's responsibility to meet the duty of the healthcare of each citizen including those who are deprived of their liberty. It is not, however, easy to provide health care in prisons due to the funding issues, security issues and the many ethical questions being raised. Here are some of the possible solutions which you can use as a starting point for your resolutions:

- Delivering healthcare for prisoners under the supervision of a country's National Health Service rather than prison authorities or judicial institutions.
- Employing full-time medical and healthcare staff to large institutions and part-time staff which may include psychologists, psychiatrists, dentists, gynecologists.
- Providing logistics to local and regional hospitals and making legal arrangements to ensure that patients requiring specialist care are treated.
- Having a psychological evaluation center located in overpopulated penal institutions in order to screen the inmates for personality disorders and access the need for treatment.
- Training physicians and nursing staff psychologically in order for them to work effectively in prison conditions. The health care must be experienced in recognising the signs of drug use, dependence and addiction.
- Using medical methods to detect various infectious diseases and disorders
- Educating the inmates about the advantages of voluntary HIV, HBV, sexually transmitted diseases and TBC screening, diagnosis and treatment.
- Introducing information and health days focusing on drug use, alcohol, nutrition, infectious diseases, violence and gender-specific issues;
- Improving nutrition provided to prisoners and prison staff.
- Setting up regional working groups for exchanging experience.
- Launching public health programs such as immunization.

## Notes from the Chair

As the previous attempts to solve the issue were on a national level, you can easily find reports online on the prison health condition of your country. Looking at specific cases will help you understand where your country stands with accordance to the issue. Here are some of the reports of various countries, which I have found online:

- **United Kingdom-** *"Health care in prisons: A health care needs assessment "* Dr Tom Marshall, Dr

*Sue Simpson and Professor Andrew Stevens:*

<http://insight.oxfordshire.gov.uk/cms/system/files/documents/Health%20care%20in%20prisons.pdf>

- **United Kingdom-** "THE CHALLENGE OF PROVIDING PRISON HEALTHCARE ", Stephen Ginn: <http://www.bmj.com/bmj/section-pdf/187642?path=/bmj/345/7875/Analysis.full.pdf>
- **MENA Region-** Custody and Health Conditions in MENA Prisons: Double Jeopardy, Dr. Scander Soufi: <http://worldjusticeproject.org/blog/custody-and-health-conditions-mena-prisons-double-jeopardy>
- **United States of America-** "The Health and Health Care of US Prisoners: Results of a Nationwide Survey": <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2661478/>
- **United States of America-** "Mental Illness, Human Rights, and US Prisons" <https://www.hrw.org/news/2009/09/22/mental-illness-human-rights-and-us-prisons>
- **European Union:** [http://www.coe.int/t/dg3/health/Prisonsreport\\_en.asp](http://www.coe.int/t/dg3/health/Prisonsreport_en.asp)
- **African Countries:** "The Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa" <http://www.achpr.org/sessions/52nd/inter-session-activity-reports/prisons-and-conditions-of-detention/>

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