

Kalusugan sa kulungan: Examining the policy for people living with HIV/AIDS and hepatitis C in Philippine prisons

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Introduction

Following the government's ongoing 'war on drugs', law enforcement operations increased, leading to a rapid rise in the number of people held in detention and prison facilities. This, in turn, worsened already poor prison conditions in the Philippines.² Official government data revealed a 511% congestion rate in Philippine jails and current trends show a surge in jail population attributable to 'the increase in the number of drug-related cases'.³

The most recent United Nations Human Rights Council's Universal Periodic Review of the Philippines has also highlighted this problem and especially its impact on the prisoners' right to health. In particular, the UN High Commissioner for Human Rights took note of the inadequate standards of medical care in prisons.⁴ Additional stakeholders went further, stating that '[p]risons were no longer able to ensure the health and safety of prisoners or meet minimal standards under international law'.⁵ The Committee Against Torture echoed these observations, particularly noting that the incidence of infectious diseases was 'extremely high'.⁶ The UN country team added that treatment for health conditions for communicable diseases was 'grossly inadequate' in prisons.⁷

With regard to particular infections, HIV/AIDS and hepatitis C (HCV) have become critical

public health problems for the Philippine prison population. Regarded as 'twin epidemics', HIV and HCV infections and co-infections are especially serious issues among marginalised socio-economic groups,⁸ with prisoners particularly vulnerable.⁹ The country already has one of the fastest-growing HIV epidemics in the world,¹⁰ and HIV incidence among prisoners has been increasing across jails,¹¹ with the head of the Public Attorney's Office claiming that as many as 'one to three in every jail cell' are infected.¹² While HCV infection has not demonstrated a similar spike in incidence, its prevalence remains higher than HIV/AIDS amongst the general population¹³ and Department of Health (DOH) surveys have found incidences of HCV infection in local jails.¹⁴

Problem analysis

A growing body of evidence points to both indirect and direct causes that account for the contemporary features of HIV/AIDS and HCV epidemiology in custodial facilities, also known as 'closed settings'.¹⁵ Indirectly, the focus on drug law enforcement efforts, with the majority of inmates detained for violating the country's illegal drugs law (as of February 2018, inmates with drug cases comprise 71.49% of the prison population),¹⁶ means concentrating and isolating people who use drugs (who are already exposed to higher risk of HIV/AIDS and HCV) in custodial facilities. Adopting a mass imprisonment and detention approach as the main response to

drug use therefore creates ‘a *de facto* policy of incarcerating more and more individuals living with HIV [and/or HCV].’¹⁷

Directly, the incidence of HIV/AIDS and HCV infection in closed settings may be attributed to risky behaviours in prison such as injecting drug use, consensual and non-consensual sexual activity, and other risk factors such as sharing or re-use of tattooing instruments.¹⁸ Prisoners do not have access to the services outlined in the UN comprehensive package of interventions for HIV prevention, treatment, and care in prisons and other closed settings.¹⁹ The UN package includes provision of sterile injecting equipment, syringes and paraphernalia, which are deemed illegal under existing drug laws in the Philippines.²⁰

Clearing operations conducted by prison officials with the Philippine Drug Enforcement Agency in 2017 led to the discovery of illegal drug paraphernalia in jail cells²¹ and anonymous police reports have previously justified investigations based on the ‘rampant’ use of drugs ‘through syringe needles.’²² In Cebu City, reports claim that ‘[n]eedle sharing continues inside prison resulting in more HIV and hepatitis C infections.’²³ Drug injection studies in Asia²⁴ and low- and middle-income countries in other regions²⁵ support this finding, noting that prisoners who inject drugs often share needles, syringes, and other injecting equipment – making them more vulnerable to the transmission of blood-borne diseases.

Unprotected sexual contact among prisoners has recently been put in the spotlight amid the emerging HIV/AIDS epidemic in jails. In 2017, officials of the Quezon City jail expressed that ‘[i]t can’t be denied that there [is] sexual [intercourse incidents] inside’ prison cells.²⁶ In a Cebu City jail, a 2014 DOH study revealed that ‘[o]ne-third of HIV positive males had tried male-to-male sex.’²⁷ While methodological and ethical constraints affect validation, unprotected same-sex activities among prisoners across the complex continuum from consensual sex to sexual violence have been consistently observed across countries, despite varying prevalence.²⁸

Anecdotal reports also point to the existence of HIV/AIDS or HCV infection risk behaviours especially the sharing or re-using tattooing instruments. Prison tattoos are associated with gang initiation,²⁹ usually using improvised inking equipment such as ballpoint pen ink, guitar wires, and toy engines.³⁰

Discussion

The Philippine Bureau of Jail Management and Penology (BJMP) is the lead government agency empowered to supervise and control all city and municipal jails in the Philippines.³¹ On 15 June 2015, the Bureau issued memorandum circulars (MCs) providing for the Rules and Regulations on the Management of Human Immunodeficiency Virus (HIV) among Inmates in all BJMP Jails Nationwide³² and the Rules and Regulations for the Implementation of Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) Prevention and Control Policy of the Bureau of Jail Management and Penology for Personnel.³³ There is no specific policy on HCV patients, and the presumption is that these cases will be treated as part of general health services provided in prisons.

The MCs refer to a wide array of services that cover training of health staff, information and education activities, voluntary HIV testing, pre- and post-test counselling services, management and treatment of inmates diagnosed with HIV and opportunistic infections, policies on ensuring uninterrupted treatment upon release and transfer, infection control guidelines including post-exposure prophylaxis (provision of anti-retroviral drugs to prisoners who may have been exposed to HIV), health promotion activities, and the provision of condoms, lubricants, and other commodities, upon request, from health staff. Tattooing and body piercing are prohibited. BJMP personnel are provided with information, education and training to protect themselves from occupational hazards, in addition to health care benefits and services related to HIV.

However, there are no specific policies regarding the following pertinent concerns: prevention of sexual violence; drug dependence treatment including opioid substitution therapy and counselling services; prevention of HIV transmission through medical and dental services; prevention, diagnosis and treatment of tuberculosis; prevention of mother-to-child transmission of HIV; prevention and treatment of sexually transmitted infections; and vaccination, diagnosis and treatment of viral hepatitis.³⁴

Recommendations

The crisis of prison overcrowding in the Philippines points to the urgent need for alternative measures to incarceration and detention in order to reduce rates of HIV/AIDS and HCV infections – as incarceration catalyzes worsening health conditions.³⁵ Furthermore, the country will benefit from the implementation of public health-oriented drug policies and programmes, including harm reduction measures for people who use drugs, to ensure the provision of evidence-based prevention, treatment and care in relation to HIV/AIDS, HCV and tuberculosis.³⁶

Harm reduction refers to policies, programmes, and practices that primarily aim to reduce the adverse health, social, and economic consequences of the problematic use of legal and illegal psychoactive drugs without solely focusing on preventing drug consumption.

To assist in implementing a shift towards a health-based approach among people held in detention and custodial facilities who use drugs, the following recommendations are proposed to the government of the Philippines:

1 **Review and repeal ‘punitive laws that have been proven to have negative health outcomes and counter established public health evidence.’**³⁷ These necessarily include removing criminal penalties and other punishment in response to drug use and

possession of drugs for personal use.³⁸ A punitive approach to drug use has not only had no impact on eliminating or reducing illegal drug use, but has also adversely affected the development and health of communities.³⁹

2 **Take steps towards ensuring continuum of care and support for people living with HIV/AIDS and HCV in prisons,** starting with the full implementation of the BJMP MCs. However, administrative oversight must be placed under the DOH as the lead health agency and not with the police to avoid conflict and confusion of roles of law enforcement vis-à-vis health care. Relatedly, the core team of the BJMP Health Service Unit in charge of implementing the MCs must not take on any law enforcement roles. Further, the results of any HIV or HCV testing must be treated with strict confidentiality, and inmates who test positive must be provided with anti-retroviral treatment and services.

3. The **MCs must also be expanded to include all relevant evidence-based interventions for people who use drugs,**⁴⁰ as the standard of care provided must be equivalent for people within and outside of jails and prisons.⁴¹ This includes the provision of standard of care for people with HIV/AIDS, HCV and TB based on the latest clinical guidelines. As a priority, condoms and lubricants must be provided for people in prison who can easily access them confidentially and without need for permission. There is strong evidence that this low-cost intervention significantly reduces the rates of HIV and HCV transmission.⁴²

4. Finally, **monitoring and evaluation must be conducted** by the core team unit of the Health Service Unit, patient records must be regularly updated **while maintaining the confidentiality of medical records,** and functional referral links established with clinics and hospitals of the local government unit or retained hospitals of the DOH for continuity of care.

Endnotes

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- Conde, C.H. (2 Aug. 2016), *Dispatches: Philippines 'War on Drugs' Worsens Jail Miseries*, <https://www.hrw.org/news/2016/08/02/dispatches-philippines-war-drugs-worsens-jail-miseries>; Human Rights Watch (HRW) (20 July 2017), *Human Rights Consequences of the "War on Drugs" in the Philippines*, <https://www.hrw.org/news/2017/07/20/human-rights-consequences-war-drugs-philippines>.
- Commission on Audit (2017), *Consolidated Annual Audit Report on the Bureau of Jail Management and Penology for the Year Ended December 31, 2016*, at 34.
- Al Hussein, Z.R., High Commissioner for Human Rights (23 Oct. 2017), *Letter to the Secretary of Foreign Affairs, the Philippines, concerning the third cycle the Philippines' Universal Periodic Review*, Annex, <http://lib.ohchr.org/HRBodies/UPR/Documents/Session27/PH/PhilippinesHCLetter.pdf>, at 4.
- United Nations (UN) Human Rights Council (HRC) (27 Feb. 2017), *Summary of stakeholders' submissions – the Philippines, Report of the Office of the United Nations High Commissioner for Human Rights*, UN Doc. A/HRC/WG.6/27/PHL/3, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/046/69/PDF/G1704669.pdf>.
- UN HRC (27 Feb. 2017), *Compilation on the Philippines, Report of the Office of the High Commissioner for Human Rights*, UN Doc. A/HRC/WG.6/27/PHL/2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/046/97/PDF/G1704697.pdf?OpenElement>, at ¶26.
- Id.*, at ¶27.
- Naveed, Z.J., et al. (2016), 'Twin epidemics of new and prevalent hepatitis C infections in Canada: BC Hepatitis Testers Cohort', *BMC Infect Dis.* 16:334.
- La Torre, G., et al. (2007), 'Socio-demographic determinants of coinfections by HIV, hepatitis B and hepatitis C viruses in central Italian prisoners', *BMC Infect. Dis.* 7:100.
- World Health Organisation Western Pacific Region, *Country profiles on HIV–Philippines*, <http://www.wpro.who.int/hiv/data/countries/phi/en/>.
- See Doyle, D. (27 Sept. 2016), 'Is the Philippines' "war on drugs" fuelling an HIV epidemic?', *Reuters*, <https://www.reuters.com/article/us-philippines-drugs-hiv-idUSKCN11X0BE>; Semilla, N. (6 Apr. 2017), '136 Cebu inmates HIV positive', *Philippine Daily Inquirer*, <http://newsinfo.inquirer.net/886908/136-cebu-inmates-hiv-positive>.
- See Roxas, J.T. (24 Aug. 2016), '1 to 3 inmates in a jail cell affected by HIV-AIDS – PAO chief', *Philippine Daily Inquirer*, <http://www.gmanetwork.com/news/news/nation/578774/1-to-3-inmates-in-a-jail-cell-affected-by-hiv-aids-pao-chief/story/>.
- See Hepatology Society of the Philippines National Viral Hepatitis Task Force (2013), *Prevention and Control of Hepatitis B and Hepatitis C in the Philippines: A Call to Action*, at 3.
- Stinus-Cabungon, M. (24 Apr. 2017), 'HIV, hepatitis C and TB at Cebu City Jail', *The Manila Times*, <http://www.manilatimes.net/hiv-hepatitis-c-tb-cebu-city-jail/323710/>.
- There is no regular or systemic disease surveillance targeting these marginalised special groups. Most data available come from intermittent government observations and reports of civil society and independent journalists.
- Bureau of Jail Management and Penology, *Data on Inmates with Drug Cases (as of February 2018)*. See also Morales, N.J. (1 Sept. 2017), 'Jails, justice system at breaking point as Philippines drugs war intensifies', *Reuters*, <https://www.reuters.com/article/us-philippines-justice/jails-justice-system-at-breaking-point-as-philippine-drugs-war-intensifies-idUSKCN1BB39F>.
- Jürgens, R., M. Nowak & M. Day (2011), 'HIV and incarceration: prisons and detention', *J Int AIDS Soc.* 14:26.
- Joint United Nations Programme on HIV and AIDS (Apr. 1997), *Prison and AIDS*, <https://www.unodc.org/documents/hiv-aids/UNAIDS%20prison%20and%20AIDS.pdf>.
- United Nations Office of Drugs and Crime (2013), *HIV prevention, treatment and care in prisons and other closed settings: a comprehensive package of interventions*, https://www.unodc.org/documents/hiv-aids/HIV_comprehensive_package_prison_2013_eBook.pdf.
- Rep. Act No. 9165, §12. Comprehensive Dangerous Drugs Act of 2002.
- Vestil, J.K. (6 Oct. 2017), 'Drugs, drug paraphernalia, cash among items seized at provincial jail', *SunStar Cebu*, <http://www.sunstar.com.ph/cebu/local-news/2017/10/06/drugs-drug-paraphernalia-cash-among-items-seized-provincial-jail-567925>.
- Dacanay, B.M. (26 Mar. 2015), 'Twelve prisoners in central Philippines positive for HIV', *Gulf News Philippines*, <http://gulfnnews.com/news/asia/philippines/twelve-prisoners-in-central-philippines-positive-for-hiv-1.1479574>.
- Stinus-Cabungon (2017).
- See Monitoring the AIDS Pandemic (2005), *MAP Report 2005, Drug Injection and HIV/AIDS in Asia*, http://web.worldbank.org/archive/website01063/WEB/IMAGES/MAP_IDU_.PDF.
- Jürgens et al (2011).
- Tubeza, P.C. (18 Mar. 2017), 'QC jail inmates given condoms to curb HIV', *Philippine Daily Inquirer*, <http://newsinfo.inquirer.net/881700/qc-jail-inmates-given-condoms-to-curb-hiv>.
- Lim, C.A. (30 Nov. 2015), 'Special Report: Prison Exchange (When drugs and AIDS collide)', *SunStar Cebu*, <http://www.sunstar.com.ph/cebu/local-news/2015/11/30/special-report-prison-exchange-first-three-parts-444493>.
- Jürgens et al. (2011).
- See Cabal, R. (15 Oct. 2016), 'Gangs' roles unique to Philippine prison system', *CNN Philippines*, <http://cnnphilippines.com/news/2016/10/15/Prison-gangs.html>; Sabangan, D.M. (2012), 'Philippine Tattoo Inmates', *European Press Photo Agency*, <http://www.epa.eu/photo-essays/2012/philippines-tattoo-inmates>.
- Pierson, E. (8 June 2015), 'For these inmates, crudely carved tattoos tell their prison stories', *MashableAsia*, <https://mashable.com/2015/06/07/prison-tattoos/>.
- Rep. Act No. 6975, §61. An act establishing the Philippine National Police under a Reorganised Department of the Interior And Local Government, and for other purposes.
- Memor. Circ. BJMP HSO GUI 006 (2015).
- Id.*
- See United Nations Office of Drugs and Crime (UNODC) (23 July 2010), *HIV in prisons situation and needs assessment toolkit* (Vienna: UNODC), at 13.
- Brinkley-Rubinstein, L. 'Incarceration as a catalyst for worsening health', *Health & Justice* 1(3), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5151791/#>.
- World Health Organisation (WHO) (27 Mar. 2017), *Public health dimension of the world drug problem*, (Geneva: WHO), http://apps.who.int/gb/ebwha/pdf_files/WHA70/A70_29-en.pdf; United Nations General Assembly (2016), *Outcome Document of the 2016 United Nations General Assembly on the World Drug Problem*, <https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf>, at 7.
- United Nations (UN) and World Health Organisation (WHO) (27 June 2017), *Joint United Nations statement on ending discrimination in health care settings* (Geneva: UN/WHO), <http://www.who.int/mediacentre/news/statements/2017/discrimination-in-health-care/en/>.
- Id.*
- Stevenson, B. (25 Jan. 2011), *Drug policy, criminal justice and mass imprisonment*, (Geneva: Global Commission on Drug Policy), http://www.globalcommissionondrugs.org/wp-content/themes/gcdp_v1/pdf/Global_Com_Bryan_Stevenson.pdf.

40 See World Health Organisation (WHO), United Nations Office of Drugs and Crime (UNODC) Joint United Nations Programme on HIV/AIDS (UNAIDS) (2012), *Technical guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users* (Geneva: WHO/UNODC/UNAIDS), http://apps.who.int/iris/bitstream/10665/77969/1/9789241504379_eng.pdf.

41 World Health Organisation Europe (2014), *Prisons and Health*, (Copenhagen: WHO Europe), at 1.

42 Jurgens, R. et al (19 May 2011), 'HIV and incarceration: prisons and detention,' *J. Int'l AIDS Society* **14**(26), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3123257/>.

Notes

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About this briefing paper

The Philippines government's 'war on drugs' since 2016 has led to a rapid rise in the number of people held in detention and prison facilities, thereby worsening already poor prison conditions in the country. This Paper provides an analysis of critical public health problems for the Philippine prison population, in relation to HIV/AIDS and hepatitis C (HCV), and offers recommendations for addressing these 'twin epidemics.'

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Funded by:



This paper is reproduced in the frames of "Harm Reduction Advocacy in Asia (HRAsia)" project (2017-2019). The project is funded by The Global Fund to enable access to HIV and Harm Reduction services for People Who Inject Drugs in Cambodia, India, Indonesia, Nepal, Philippines, Thailand and Vietnam. The contents of this publication are the sole responsibility of the authors and do not necessarily reflect the opinion of The Global Fund.