

# GLOBAL PRISON TRENDS 2022



## Global Prison Trends 2022

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Cover photo: People are released from Welikada Prison on 4 February 2022, as part of an amnesty for Sri Lanka's Independence Day.

Graphic design by Alex Valy.

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**Expanding the capacity of prisons is not a viable, long-term solution to reducing overcrowding and the devastating consequences of imprisonment.**



Prison officers in Shenyang Liaoning Province, China

# Introduction

Each year, Penal Reform International (PRI) and the Thailand Institute of Justice (TIJ) publish our joint *Global Prison Trends* report to share information and analysis on key trends and developments in prisons. This year in our 8th edition of *Global Prison Trends*, we continue to document the trends in the use of imprisonment, changes and issues faced by people belonging to certain – and often vulnerable – segments of prison populations, as well as prison management and the use of technologies.

For the first time, *Global Prison Trends* includes a dedicated chapter on prison health. Against the backdrop of the ongoing COVID-19 pandemic, this is in recognition that prison healthcare needs greater attention and that it is distinct from prison management. We also have shifted away from a longer Special Focus section to featuring a ‘Spotlight’ on a number of issues, allowing us to highlight a broader range of key trends and challenges facing prisons and those detained in them.

With the dearth of data in many prison systems, *Global Prison Trends* is pivotal in bringing to light the information that is available to identify and highlight key trends affecting the 11.5 million people

in prisons worldwide. Data and information are critical in the global struggles facing societies, especially in managing crises as seen with the COVID-19 pandemic or as conflict breaks out. Data is also vital in challenging exclusion, realising human rights of those most left behind and keeping governments true to their commitments under the 2030 Agenda for Sustainable Development.

As the global prison population rises year-on-year, we see the need for stronger action to reform policies and laws that drive this growth.

These outdated policies and laws counter both longstanding and recent commitments to reduce imprisonment and implement rehabilitative-focused criminal justice systems. For example, the first ever United Nations System Common Position on Incarceration states unequivocally the negative impact of using imprisonment as the ‘default’, including the ‘acute’ crisis of overcrowding.

Expanding the capacity of prisons – a trend that we detail in this year’s report – is not a viable, long-term solution to reducing overcrowding and the devastating consequences of imprisonment on individuals and societies. Instead, we need an expansion in the availability and

use of non-custodial sanctions and measures that are true alternatives to imprisonment – and not supplementary or net-widening – coupled with decriminalisation and depenalisation of certain offences, in line with the UN Tokyo Rules and the UN Bangkok Rules.

We continue to publish *Global Prison Trends* as a resource, a tool and a reference for policymakers, practitioners and academics, and to support and inspire penal reform activists and human rights defenders, including civil society actors.

Civil society organisations and institutions like PRI and TIJ remain at the centre of reform efforts. In fact, many examples of initiatives and research by civil society is drawn on for *Global Prison Trends*. Shrinking spaces for civil society and a lack of funding for human rights work are key challenges that need to be tackled. Many NGOs monitor prisons, provide life-saving services to people in criminal justice systems, and their work needs to be recognised and supported.

## Olivia Rope

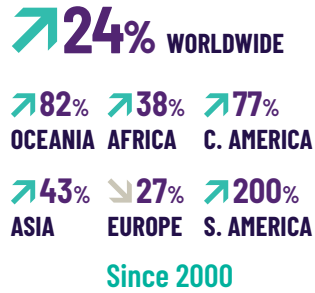
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# Key facts & figures

## The global prison population is at an all-time high



Ethnic minorities & indigenous peoples

Older people

Children

Women



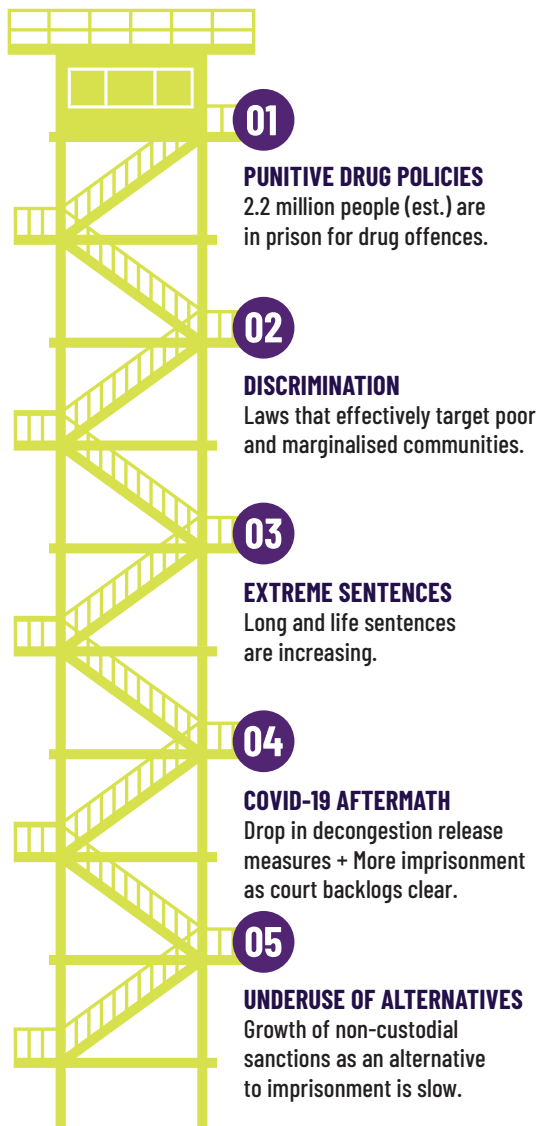
Proportions increasing

**1 in 3** people held in PRE-TRIAL DETENTION



Stable rate

## Key drivers of imprisonment



## Global prison capacity

### Overcrowding

Prisons in many countries operate above their capacity



Overcrowding impacts:



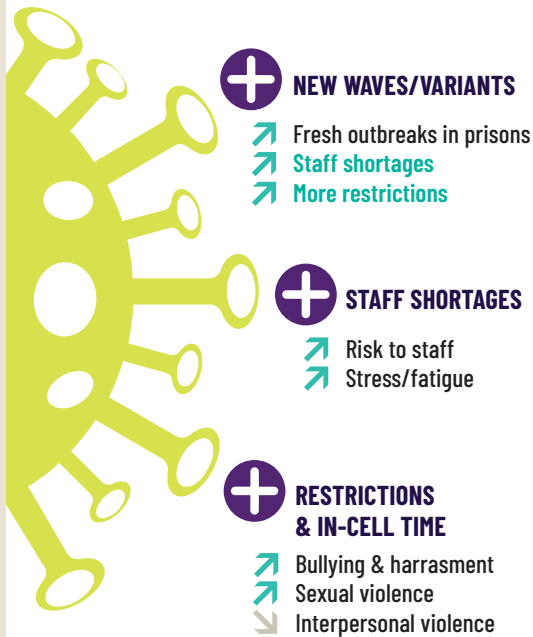
### Expanding global prison footprint

In 2021, many countries announced or started building new prisons, often bigger and more remote



# Key facts & figures

## Ongoing impacts of COVID-19



### People in prisons are not always prioritised in national vaccination strategies



Non-COVID healthcare needs are neglected

Growing **MENTAL HEALTH** crisis

## Climate change



### Prisons are neglected in disaster risk reduction

DESPITE INCREASING **EXTREME TEMPERATURES & NATURAL HAZARDS**



LEADS TO

- Fatalities
- Illness
- Prison unrest
- Contamination of water supply
- Spread of infection

## Conflicts



LEADS TO

**DECREASED** Access to basic necessities  
Prison monitoring  
Humane conditions

**INCREASED** Ill-treatment  
Prisons targeted for attacks & escapes



# Key messages

- 01** **The number of people in prison worldwide has reached an all-time high**

More than 11.5 million people are estimated to be in prison globally – the highest ever, and a 24% increase since 2000 (a rate slightly less than the estimated growth in the world's general population). Prison overcrowding remains at critical levels in some countries, with prisons operating above official capacity in 121 countries.
- 02** **COVID-19 measures have failed to reduce the global prison population**

Release measures to decongest prisons, seen particularly in the early stages of the COVID-19 pandemic, have largely been abandoned. Much of the fluctuation in national prison populations over the course of the pandemic has been due to reduced court operations resulting in fewer admissions to prisons. As court backlogs are cleared, prison numbers have risen again, beyond pre-pandemic levels in some places.
- 03** **The global prison capacity keeps expanding with alarming investment – and bigger, more remote prisons**

Rising prison populations and overcrowding has triggered investment in new or expanded facilities. In 2021, at least 24 countries announced plans for, or started construction of, new prison facilities – in total, creating about 437,000 more spaces worldwide. Turkey accounts for more than half of this number and Sri Lanka one fifth, with both countries moving towards massive prison complexes. Where information on the size and location of new prisons is available, there is a general trend towards increased scale as well as geographical remoteness.
- 04** **Rates of pre-trial detention have not changed, indicating little progress in achieving SDG 16**

Around 1 in 3 people in prison globally is held in pre-trial detention, without having been convicted or sentenced. The global share of people in pre-trial detention has remained stable since 2000, ranging between 29% and 31% of the global prison population, demonstrating little progress in achieving target 16.3 of the UN 2030 Sustainable Development Agenda to ensure equal access to justice for all – under which one indicator is the proportion of pre-trial detainees in prisons.
- 05** **The growth of non-custodial sanctions is incredibly slow, despite promising use and expansion during the pandemic**

Although non-custodial alternatives to imprisonment are widely available, in practice they remain enormously underutilised. Analysis also shows that community sanctions and measures are not always used as an alternative to imprisonment, but as a supplement, and that violations of conditions contribute to growing prison populations.
- 06** **Around 1 in 5 people in prison are held for drug offences under punitive drug policies that drive prison overcrowding**

Punitive drug laws that impose disproportionate criminal sanctions have led to an estimated 2.2 million people worldwide in prison for drug offences. Although 50 jurisdictions in more than 30 countries have removed criminal sanctions for drug possession for personal use, almost half a million people globally are detained for such offences.
- 07** **Women and children make up growing shares of prison populations**

The number of women in prison has increased 33% over the past 20 years, compared to a 25% rise among men. Around 261,200 children worldwide are estimated to have been in detention on any given day in 2020 – up from previous estimates of 160,000–250,000 children in 2018.
- 08** **Systemic racism persists in criminal justice systems, despite increased UN action**

People from minority and indigenous communities continue to make up a disproportionate share of prison populations, and experience discrimination across all parts of prison regimes. Action has stepped up at the UN in the past year on racial justice and equality in criminal justice systems.



- 09 Prisons have been accorded low priority in COVID-19 vaccination plans**
- Out of the 131 countries for which vaccination plans or other resources could be found, only 56 (43%) explicitly mention people in prison, showing that people in prison were not recognised as an at-risk or priority group.
- 10 The mental health crisis in prisons is being ignored**
- Mental health conditions remain disproportionately high among prison populations, and data suggests they are rising. New evidence points to the significant impact of COVID-19 restrictions in prisons on mental health, exacerbating the crisis. Yet, a lack of investment and attention means there is a dire lack of qualified mental health staff or services in a large proportion of prisons globally.
- 11 Limited access to water and sanitation affects millions of people in prison daily**
- There is acute water scarcity affecting prisons in many low-income countries, particularly in fragile and conflict-affected settings. Water shortages, unsafe and contaminated water and insufficient sanitation facilities, exacerbated or caused by prison overcrowding, contribute to catastrophic prison conditions.
- 12 More countries moved to abolish the death penalty despite some notable regressions**
- 109 countries worldwide have formally abolished the death penalty and, according to the UN, 170 have either abolished or do not practice it. However, a number of retentionist countries resumed executions or used capital punishment with renewed vigour in 2021, after a slowdown in 2020. At least 131 people were executed for drug offences in 2021, a 336% increase compared to 2020.
- 13 Use of life sentences is on the rise, with increased punitiveness**
- In many countries, there is an upward trend in the number of life sentences imposed, their length, conditions and the types of offences that can attract a life sentence. The most recent data (2019) estimates almost half a million people are serving a formal life sentence, while the number serving a 'de facto' life sentence remains unknown.
- 14 Torture and high levels of violence plague many prison systems**
- Prisons remain violent places, with regular reports of torture and excessive use of force against people in prison in all regions of the world. Certain people including women, children, LGBTQ+ persons and people newly arrived in prison face increased risk of violence from detainees and staff.
- 15 Prisons are left behind in disaster-risk responses in the face of changing climate conditions, extreme temperatures and hazards**
- Prisons are rarely accounted for in hazard-risk management, mitigation plans or disaster responses. As extreme weather conditions and natural hazards increase, people in prison and staff are impacted – in some cases fatally. Common knock-on effects include a lack of critical infrastructure such as water, prison unrest, escapes and being cut off from the outside world.
- 16 People in prison in fragile and conflict-affected states face inhumane conditions of detention**
- Prisons in fragile and conflict-affected settings continue to lack basic material needs and have high rates of torture and ill-treatment. Prisons have also become targets in conflicts over the past year.
- 17 Staff shortages continue and have worsened in some prisons, not least due to COVID-19**
- The pandemic has brought additional challenges to ensuring adequate levels of prison staffing due to infection and isolation rules in a number of countries, as well as the impact of vaccine mandates. This impacts safety, healthcare, rehabilitation programmes and daily regimes in prisons.
- 18 Improving digital literacy of people in prison is emerging as a key priority**
- Many prisons across all regions are seeking to increase access to the Internet and equip people in prison with digital literacy skills, recognising the central role of digital technology in navigating life outside prison.

Part one

# Crime and the use of imprisonment

## 1.1. Imprisonment and prison overcrowding

→ **An estimated 11.5 million people are imprisoned worldwide – a 24% increase since 2000.**

→ **Prisons in 121 countries and territories are operating above capacity, with 13 operating at over 250% occupancy.**

→ **Globally the proportion of pre-trial detention remains stable at around a third of people held in prison.**

The global prison population continues to increase. Taking into account estimated prison populations in countries for which no official figures are available, new estimates from the World Prison Brief reveal there are more than 11.5 million people in prison globally.<sup>1</sup> Of this, more than 2 million are in the US, at least 1.69 million in China and 811,000 in Brazil. In terms of prison population rates, the US remains the country with the highest rate (629 per 100,000), followed by Rwanda (580), Turkmenistan (576), El Salvador (564) and Cuba (510). To put this into context, globally 140 people per 100,000 are in prison on any given day.<sup>2</sup>

There is considerable regional variance in the use of imprisonment. Since 2000, the prison population has increased by 82% in Oceania, 43% in the Americas (200% in

South America) and 32% in Africa. In contrast, in Europe, prison populations have decreased by 27% since 2000. This is mainly due to a sharp prison population decline in Russia (by 56%) and in Eastern Europe (by 49%).<sup>3</sup> Globally, since 2000 there has been an increase of 24%, a rate slightly less than the estimated growth in the world's general population.

Steep increases have been seen in some places. In India, the prison population has risen 14% across 24 of the country's 28 states (counting for almost 84% of the national prison population) in the last two years,<sup>4</sup> due to increased arrests, delays in hearing of bail applications, and suspension of regular court proceedings. In Turkey, over the past 10 years the prison population has increased by 130%, climbing from 128,000 in 2010 to 295,000 at the end of 2021.<sup>5</sup> Conversely, statistics from 2021 showed that Switzerland was imprisoning the lowest number of people in a decade, with an 8.4% decrease between 2020 and 2021, possibly linked to pandemic-related restrictions.<sup>6</sup>

Pre-trial detainees continue to constitute a significant share of the prison population in most jurisdictions; around one in three people in prison globally is held without having been convicted or sentenced. Despite tracking pre-trial detention rates as an indicator of progress towards

**THE PRISON POPULATION IS INCREASING:<sup>1</sup>**



Change in the number of people in prison per region 2000-2021<sup>1</sup>

Oceania	+82%
Asia	+43%
Africa	+38%
Central & South America	+32%
Europe	-27%

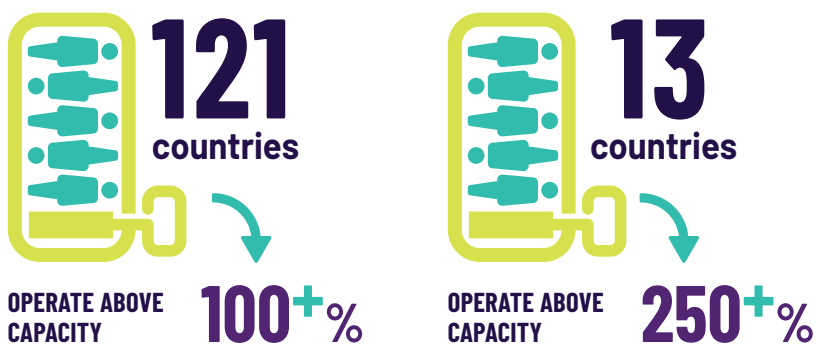
Sustainable Development Goal 16,<sup>7</sup> the global share of unsentenced detainees has remained stable since 2000 – ranging between 29% and 31% of the global prison population. At the regional level, there is considerable variation in trends. Over the last two decades, Africa has seen the largest decrease in the share of unsentenced people in prison, from 45% in 2000 to 34% in 2019, although along with Asia the region continues to have the highest share of people in pre-trial detention globally.



**Around the world, the poorest and most marginalised members of society continue to be over-represented in prisons and criminal justice systems.**

Mananjary Prison in Madagascar, which reportedly holds three times its official capacity.

**PRISONS IN MANY COUNTRIES OPERATE ABOVE THEIR CAPACITY:**



Over the same period the proportion of pre-trial detainees increased in Oceania from 20% to 32%.<sup>8</sup>

Some of the fluctuation of prison population numbers over the last two years is undoubtedly related to the pandemic, either directly, through large-scale exceptional release measures to decongest prisons, or indirectly, through changes in the nature of offences being committed or a slowing down of the judicial system and subsequent efforts to clear court backlogs. Now, more than two years on from the start of the pandemic, it is clear that COVID-19 has not resulted in an overall reduction in the global prison population.

Over the course of the pandemic, some countries have seen lower imprisonment rates due to courts not operating as usual, resulting in fewer new admissions to prisons. Even now, many countries' courts are still struggling with a considerable backlog of cases, which has a significant impact on the criminal justice system. For example, in Ireland, prisons dealing with active lockdowns are not accepting new admissions as staff are not able to escort people in prison to court, which has compounded court delays.<sup>9</sup> In New Zealand, nearly 20,000 court appointments had been postponed because of COVID-19-related restrictions.<sup>10</sup>

Other countries are seeing the opposite, with prison numbers rising again. In some places, this is linked

to changes in court operations, such as in Nigeria, where the backlog of court cases has led to a huge proportion of people held in pre-trial detention. There are now 50,000 people awaiting trial, out of a prison population of 70,000.<sup>11</sup> A study in the US found that – following initial reductions of pre-trial detainees held in jails in the first months of the pandemic – between May 2020 and February 2021 the populations of 83% of jails sampled increased; by December 2021, 28% had higher populations than before the pandemic. Data suggests most of the population drops during the pandemic are due to reduced prison admissions rather than dedicated decongestion efforts, and early reforms to mitigate the impact of COVID-19 have been largely abandoned.<sup>12</sup>

The latest data shows that prison systems in 121 countries and territories are operating above their official capacity, including 13 with levels higher than 250%.<sup>13</sup> Out of these 13 countries, seven are in Africa and three are in Asia – the two regions that have the largest share of pre-trial detainees globally. The European Committee for the Prevention of Torture (CPT) has found persistent overcrowding in many prison systems in the region, especially in pre-trial detention facilities and, if not across the entire prison system, at least in particular prisons, parts of prisons or cells. To tackle the problem, the CPT has called on European states to set a

strict limit for the number of people detained in each facility to guarantee the minimum standard in terms of living space, as well as increased use of alternatives to detention.<sup>14</sup>

The large-scale release measures or pardons implemented recently have mostly been in response to the pandemic and to alleviate overcrowding. In Ecuador, the President pardoned people sentenced for minor traffic offences and people in prison with terminal illnesses to alleviate overcrowding and related unrest, although it remains unclear how many benefitted from this pardon (see 4.1 *Security and violence*). In February 2022, alongside a new public policy on prison conditions, the President ordered the release of some 5,000 people as part of an early release programme. In India, the state of Uttar Pradesh extended special parole to 2,500 people to alleviate overcrowding, as the prison population keeps rising.<sup>15</sup> China has implemented sweeping bail reform which reduced the proportion of pre-trial detainees to 53% over the last year, down from 66% in 2019 and almost 95% between 1990 and 2009.<sup>16</sup>

While information on the impact of COVID-19-related prison release measures on recidivism rates is still scarce, data available in Europe indicates that they have not resulted in any significant increase in recidivism.<sup>17</sup> For example, in Belgium, of the 356 people who were granted early provisional release only ten committed a new (minor) offence. In Ireland, out of approximately 400 people released during the pandemic, 6% were recalled to prison and compliance rates with early release conditions were above 85%. In Portugal, 120 of the 906 individuals released on extraordinary license had their licenses revoked due to non-compliance with conditions, and only 235 of the 1,945 people released under extraordinary measures were recalled to prison for committing new offences.<sup>18</sup>

## 1.2 Drug policies

→ **An estimated 2.2 million people worldwide are in prison for drug offences, 22% (470,000 people) for drug possession for personal use.**

→ **Over 50 jurisdictions in more than 30 countries have removed criminal sanctions for drug possession for personal use.**

National drug policies that result in imprisonment of people who use drugs and those involved in illegal drug markets continue to be a major contributing factor to prison overcrowding globally (see *1.1 Imprisonment and prison overcrowding*). For decades, punitive drug laws that impose disproportionate criminal sanctions have led to the imprisonment of millions of people worldwide for drug offences. Today, it is estimated that 2.2 million people worldwide are in prison for drug offences, of which 22% (470,000 people) have been imprisoned for drug possession for personal use.<sup>19</sup> Additionally, across seven East and Southeast Asian countries between 440,000 and 500,000 people who use drugs (and unknown numbers elsewhere) are subject to civil or administrative detention because of their personal drug use.<sup>20</sup>

A new Global Drug Policy Index<sup>21</sup> launched in 2021 ranks 30 countries based on the extent to which their drug policies and their implementation align with the 2018 UN System Common Position on drugs.<sup>22</sup> The countries with the highest rankings overall are Norway, New Zealand, and Portugal, while the lowest are Brazil, Uganda, and Indonesia. In relation to proportionality and criminal justice, however, Kenya ranks the lowest of the countries included, followed by Uganda, Mozambique, Brazil, and Argentina, all of which rely on imprisonment for non-violent drug-related offences 'to a very

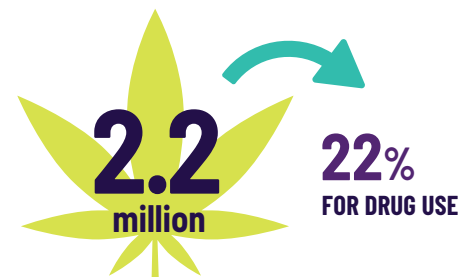
large extent', score low on access to alternatives to arrest, prosecution, conviction and/or punishment for drug activities, and apply mandatory minimum sentences for a first drug offence. The Index reports on the continued negative impacts of drug control on women in all of the Latin American countries it assessed as well as in Kenya, India, Indonesia, Russia, South Africa and Uganda.

Over the past year, various UN bodies joined calls for reform of national drug policies with heavy criticism aimed at the overuse of detention for some drug offences. The first-ever UN System Common Position on Incarceration underscored the impact of imprisonment for drug-related offences, committing the UN system to support reform efforts.<sup>23</sup> The UN Working Group on Arbitrary Detention released a landmark study on arbitrary detention and drug policies with recommendations on proportionate sentencing for drug-related offences and calls for the decriminalisation of drug use and possession for personal use.<sup>24</sup> Decriminalisation was also called for by UNAIDS in the new Global AIDS Strategy for 2021–2026.

Over 50 jurisdictions in more than 30 countries have removed criminal sanctions for drug possession for personal use, albeit with significant differences in approach and levels of effectiveness.<sup>25</sup> Recent moves towards decriminalisation have been made in Norway, Iceland, Finland, Canada (at the local level), and in the US state of New Jersey. Although drug use and possession for personal use have remained as a criminal offence in Thailand, recent law changes foresee greater use of non-custodial sanctions and reduced penalties in some cases in an effort to reduce the prison population of which 80% are held for drug offences.

Elsewhere in Asia, punitive approaches to drug control persist, including the use of the death penalty for drug offences

### NUMBER OF PEOPLE IN PRISON FOR DRUG-RELATED OFFENCES:<sup>19</sup>



in Singapore and Vietnam (see *1.5 Death penalty*), as well as overuse of imprisonment leading to high levels of overcrowding. In Indonesia, where prisons are operating at more than double their capacity, over half of the prison population totalling some 133,000 people are in prison for drug offences, and 63% of people in prison in Malaysia are there for low-level drug offences.<sup>26</sup>

According to new data from the Armed Conflict Location & Event Data Project (ACLED), anti-drug operations in the Philippines have resulted in at least 7,742 civilians being killed since 2016 (25% more than indicated by official figures).<sup>27</sup> International pressure for accountability mounted during 2021 and led to the International Criminal Court launching an investigation into crimes against humanity committed between 2011 and 2019 in the context of the government's 'war on drugs'. This was temporarily suspended in November 2021 due to a request from the Philippines to defer to a national investigation into the matter. That investigation by the Department of Justice concluded that 154 police officers should face criminal charges and resulted in a rare admission by the country's President of 'full responsibility' for the fatal war on drugs and a commitment to investigate thousands more cases of people killed by police in anti-drug operations.

**Spotlight on:**

## 1.3 Laws that criminalise poverty and status

→ **Laws that criminalise acts associated with poverty and survival are a key driver of rising prison populations and overcrowding.**

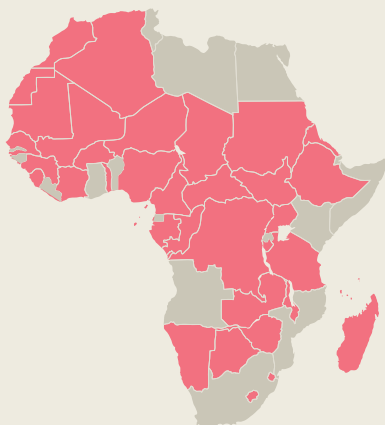
→ **At least 42 countries in Africa criminalise people with no fixed address or means of subsistence.**

→ **People experiencing homelessness have been particularly affected by COVID-19 laws.**

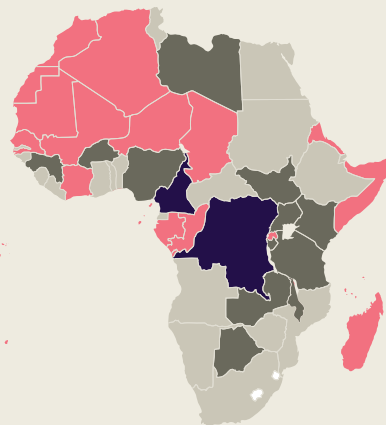
Around the world, the poorest and most marginalised members of society continue to be over-represented in prisons and criminal justice systems. Many countries continue to enforce laws that lead to imprisonment for acts associated with poverty and survival with little connection to public safety. This unnecessary overuse of imprisonment continues to drive up national prison populations and overcrowding. For example, in Sri Lanka, where prisons are operating at 190% of official capacity, latest figures show 74% of all convicted persons in 2020 were imprisoned due to the inability to pay fines.<sup>28</sup>

Such laws disproportionately affect those who experience discrimination and social exclusion because of their status, including people experiencing homelessness, informal traders, sex workers and LGBTQ+ persons. The offences of vagrancy or idleness still exist in at least 42 countries in Africa, criminalising people who do not have a means

**COUNTRIES IN AFRICA WITH 'VAGRANCY LAWS'.<sup>29</sup>**



**MAXIMUM PENALTIES FOR BEGGING IN AFRICA:<sup>30</sup>**



- Penal law offences exist which criminalise having no fixed abode or no means of subsistence
- No specific penal law offences exist to criminalise lack of subsistence (but can exist in municipal by-laws)

- 1-3 months imprisonment
- 6 months imprisonment
- 3-7 years imprisonment
- No specific offence

of subsistence and cannot 'give a good account' of themselves, allowing the police to arrest such people without a warrant. In many countries the penalty for vagrancy can be up to 6 months' imprisonment and in some, such as Cameroon, up to 2 years.<sup>29</sup> Begging is also widely prohibited across the region, with maximum penalties ranging from 1 month to 7 years' imprisonment.<sup>30</sup>

This year marks two decades since the Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms recommended the decriminalisation of various offences including vagrancy-related offences.<sup>31</sup> Moves have accelerated in recent years to reform these laws, including the adoption of the Principles on

the Decriminalisation of Petty Offences in Africa, setting out a new legal standard for all African countries, and the mobilisation of the Regional Campaign to Decriminalise Petty Offences. In the past year, the Lagos State in Nigeria agreed to pilot the decriminalisation of petty offences and in Uganda, a task force has been established to work towards decriminalisation of petty offences, championed by the Uganda Human Rights Commission and including other government agencies involved in law enforcement and law reform.

Reforms are also being led through court action in Africa and beyond. The Malawi High Court in June 2021 heard a case challenging the constitutionality of police 'sweeping' exercises

which involve arbitrary arrest practices and result in detention without evidence of any offence having been committed. In August 2021, Nigeria's Federal High Court, in a case relating to raids conducted in April 2019, held that the arrest of the women without cause and the cruel and inhumane treatment they experienced violated their constitutional rights. The Court also issued an injunction restraining the police and other law enforcement entities from arresting women in such circumstances. The case follows a similar judgment in December 2019. In Brazil, reports have increased recently of people being arrested for theft of food, energy, or water, including one woman arrested for stealing discarded food from a restaurant's rubbish bin, and another woman who was imprisoned for more than 100 days, accused of stealing (public) water.<sup>32</sup> In October, the Superior Court of Justice, in releasing a woman who has lived on the street for at least 10 years who had been imprisoned for stealing food and a soft drink (amounting to US\$3.84), acknowledged the woman's state of need and that she had committed 'starvation theft'.<sup>33</sup>

New research has pointed to discrimination against people in prison without a fixed address in the implementation of COVID-19 release measures. In Belgium and Portugal, for instance, people in prison without a residence in the community were excluded from release measures during the pandemic. On the other hand, where a place to live was not a criteria and releases were implemented without adequate preparation, this resulted in cases of homelessness at release from prison. This was seen with extraordinary pardons in Portugal, where public and civil society organisations collaborated to provide accommodation. In Latvia, those released from prison that do not have a place to live can stay at social rehabilitation centres; however, access to these centres was also restricted during the pandemic.<sup>34</sup>

People involved in sex work continue to be criminalised and imprisoned disproportionately in a number of countries. This has led to efforts to decriminalise sex work over the past year, including in Australia where the state of Victoria became the third state to decriminalise sex work, with

the changes and repeal of the current sex work licensing system expected to come into full effect by December 2023. In the US, a bill to decriminalise sex work in the state of Oregon failed to pass in June 2021, but two similar bills have been tabled in New York, where the Manhattan district attorney's office has said it will no longer prosecute prostitution and requested that 914 open cases be dismissed, as well as 5,080 cases charging people with loitering for the purpose of prostitution.<sup>35</sup>

Even where sex work is not prohibited, sex workers face high risk of detention and ill-treatment. A recent mapping of legislation on sex work in 11 countries in Latin America and the Caribbean found that, although sex work is not prohibited in any of the countries, those working on the streets experience institutional violence, including arbitrary or illegal arrest and detention in Costa Rica, Honduras, Nicaragua, Panama, and Paraguay.<sup>36</sup> For sex workers detained in Peru, usually illegally, demands for bribes or sexual relations in exchange for release was found to be common.

## 1.4 Alternatives to imprisonment

→ **Reductions in prison populations linked to COVID-19 measures have proven more sustainable in countries with existing mechanisms for alternatives to detention.**

→ **Data on non-custodial measures and sanctions globally remains lacking, but in Europe, their use grew by 3% from 2019 to 2020.**

During 2021, hopes that the response to COVID-19 would lead to longer-term global efforts to reduce prison populations through the increased use of alternatives to imprisonment began to dwindle as numbers continued to rise in many countries (see *1.1 Imprisonment and prison overcrowding*). Evidence of non-custodial measures being utilised to relieve prison systems has been seen, for example in Portugal where individuals who had previously benefited from extraordinary prison leave could bring forward their parole by a period of up to six months, by court decision.

The pandemic also prompted more non-custodial measures to be used in places like Bahrain, where an alternative sentencing scheme that includes community service and home detention was expanded to all people in prison following protests about overcrowding and fear of COVID-19.<sup>37</sup>

While the impact of COVID-19 on prisons has received attention, its impact on non-custodial measures and sanctions is only now beginning to be documented.<sup>38</sup> In January 2022, a series of research reports by PRI with the University

Outside prison gates in Yangon, Myanmar.



**More than two years on from the start of the pandemic, it is clear that COVID-19-related measures have not resulted in an overall reduction in the global prison population.**



of Coimbra and the Hungarian Helsinki Committee shed light on the impacts of the pandemic on non-custodial sanctions and measures.<sup>39</sup> Drawing on lessons from the research, guidance was also published in, *'Ten-point plan: Crisis-ready non-custodial sanctions and measures'*.<sup>40</sup> As with prisons, many longstanding failings and shortcomings in the implementation of non-custodial sanctions and measures have been exacerbated, but there have also been many examples of innovative practice and adaptations to be harnessed.

In terms of how supervision is implemented, many countries such as the Netherlands have moved to a 'blended' form of probation (both online and face-to-face contact) developed during the pandemic, which will be further developed for future use. This has potential benefits for both the probation service in terms of efficiency and the client, but the impact of reduced in-person contact is yet to be evaluated. In Chile, for example, before the pandemic, no office in the country's capital, Santiago, reported meeting clients less than once a month, with 58% meeting 2-3 times a week. Since the pandemic, however, almost half reported they met clients less than once a month, with an increasing reliance on phone calls and videoconferencing. While most people serving probation in the country (70%) have a home phone or cell phone, less than half have access to emails, smartphones, or videoconference facilities, and less than a quarter have a computer with access to the internet at home posing difficulties in this new *modus operandi*.<sup>41</sup>

In Europe as a whole, the number of non-custodial measures and sanctions grew by 3% from 2019 to 2020. However, analysis of the

ratio between probation and prison populations showed that, with the exception of eight countries, there were high rates of both people serving probation and prison populations.<sup>42</sup> This indicates that community sanctions and measures are not always being used as an alternative to imprisonment, but in addition to (as a supplementary sanction). An increase in non-custodial sanctions can also lead to higher rates of imprisonment if violations can lead to detention. This has been the case in the US where the most recent data shows that almost one in five (18%) people in jail nationally are detained for a violation of probation or parole.<sup>43</sup>

Reduced prison numbers linked to COVID-19 have proven to be more sustainable in countries with existing detention alternatives or reform initiatives. In Ireland, the 15% reduction in numbers obtained as a result of COVID-19 release measures followed a more general trend in the country to move away from short sentences, increase the use of community service orders and non-custodial sanctions. Evidence has demonstrated that the availability of existing mechanisms for detention alternatives has allowed for a more effective response on reducing prison populations in times of crisis.<sup>44</sup>

Unrelated to COVID-19, there have been reforms to replace the use of short sentences with non-custodial sentences. In Belgium, the federal parliament has given its approval to a proposal aimed at making it easier for people sentenced to a short term in prison to request alternative types of supervision, and judges will no longer be able to impose a prison sentence on those convicted of very minor crimes such as vandalism and certain traffic offences.<sup>45</sup> In Kuwait, those sentenced to less than three

years in prison are now eligible to serve their sentence at home under electronic surveillance, and in Ghana, the government continues to work on the enactment of a non-custodial sentencing law.

Unfortunately, even when available in law, many alternatives to detention – at pre-trial, sentencing and post-sentencing stages – are not widely used in practice. Reasons vary but common issues that continue to be reported on include a lack of awareness, resources and training for the judiciary, or due to judicial resistance and lack of political will. This is often linked to perceptions of public opposition to the use of alternatives and support for punitive approaches. Yet new research from Cambodia adds to the existing body of research that challenges this premise. The study found that in Cambodia, where delays in implementing alternatives to detention for children in conflict with the law were often attributed to resistance to community-based alternatives, communities were in fact broadly in favour of alternatives, and officials were willing to put the law into practice. Instead, the main barriers to implementation were found to be linked to poor communication, coordination, and resourcing.<sup>46</sup>

In the US, there is also a significant body of research that demonstrates support across political parties, regions, ages, genders, racial and ethnic groups for policy changes that provide for alternatives to imprisonment for people convicted of non-violent offences. In Australia, public opinion polls have shown broad support for alternatives to detention, especially for people convicted of non-violent offences, young people, and those with substance dependencies and/or mental health problems.<sup>47</sup>

## 1.5 Death Penalty

→ **170 countries have abolished the death penalty or do not practice it, according to the UN.**

→ **At least 131 people were executed for drug offences in 2021, a 336% increase compared to 2020.**

The movement towards worldwide abolition of the death penalty continues, albeit with some setbacks. According to the UN 170 out of 193 UN Member States have either abolished the death penalty or do not practise it.<sup>48</sup> Positively, Papua New Guinea passed a law to abolish the death penalty in January 2022 after reintroducing it in 1991, noting that the state lacked the mechanisms and infrastructure to carry it out humanely.<sup>49</sup> Sierra Leone passed a similar law in July 2021 – the 22nd country in Africa to do so.<sup>50</sup>

There have been notable regressions, however, including in Malawi, where the Supreme Court declared the death penalty as unconstitutional in April 2021, but soon retreated from its decision four months later. The Supreme Court clarified that only mandatory death sentences are unconstitutional and that trial judges can impose the death sentence on a discretionary basis.<sup>51</sup>

Furthermore, several countries retaining the death penalty have regressed and handed down death sentences or carried out executions over the past year. Japan executed three individuals in 2021, the country’s first executions since 2019.<sup>52</sup> Saudi Arabia executed 52 people in the first half of 2021 alone, almost twice the number of executions in 2020.<sup>53</sup> Belarus, the only European country that still imposes the death penalty, announced that it will conduct a referendum on the death penalty, but executed one person in March 2022.<sup>54</sup>

Executions in the US reached historic lows after a high in 2020 under the Trump administration. In 2021, no federal executions were carried out, but 18 people were sentenced to death and 11 were executed across US states. A majority of the states in the US (26 of 50 states) have abolished capital punishment or imposed a moratorium on its use.<sup>55</sup>

Drug offences constitute a large proportion of death penalty cases in a handful of retentionist countries and moves to abolish the death penalty for drug offences around the world have been mixed (see 1.2 *Drug policies*). Thirty-five countries retain the death penalty for drug offences and 3,000 people are estimated to be on death row for drug offences worldwide. In 2021, at least 131 people were executed for drug offences, constituting a 336% increase compared to 2020. Death sentences for drug offences were confirmed in Bangladesh, Egypt, Kuwait, United Arab Emirates and Iraq.<sup>56</sup>

Some moves towards abolition of the death sentence for drug offences include in Saudi Arabia where a moratorium in such cases was recently imposed and no executions for drug offences were carried out in 2021.<sup>57</sup> No executions have taken place in Indonesia for the fifth consecutive year and in Malaysia, the Special Committee on the death penalty has indicated that a bill to amend the laws on death penalty will be tabled in 2022.<sup>58</sup> In Singapore, where a majority of people on death row have been convicted of drug offences, a temporary reprieve was ordered for a Malaysian man with mental disabilities who is on death row for drug offences after he contracted COVID-19 in prison. The President of Singapore also ordered a delay in the execution of two persons with intellectual disabilities in February 2022.<sup>59</sup> In March, however, Singapore’s highest court made clear that the law does not prohibit the execution of people

### DEATH SENTENCES ARE ABOLISHED IN MORE COUNTRIES:



with intellectual or psychosocial disabilities. Executions for drug offences resumed (the first since November 2019) with the hanging of a 68-year-old man, followed by a Malaysian man in April, while another Malaysian man won a last-minute reprieve pending a legal challenge in May.

Women make up a small minority of death row populations, but they are predominantly there for drug offences or murder charges. In Iran, more than a dozen women were reportedly executed in 2021 on these counts<sup>60</sup> and at least one woman in China was executed for a drug offence.<sup>61</sup> In Malaysia, 95% of all women on death row in 2019 were convicted of a drug offence compared to 70% of men.

In some parts of the world the death penalty is increasingly used as a tool for political repression and to quell opposition and dissent. In March 2022, Saudi Arabia executed 81 men in one day for terrorism and other offences including holding “deviant beliefs”; about half of the men were Muslims from the Shiite minority who had taken part in anti-government protests. In Egypt, out of over 100 crimes for which the death penalty may be imposed, 15 capital crimes are found in the anti-terrorism law. Death sentences are commonly imposed in mass trials and for charges such as proximity to an event relating to political opposition<sup>62</sup> and close

to 40 people were executed under such offences in only the first six months of 2021.<sup>63</sup> In Iran, out of the 254 people reportedly executed as of November 2021, at least seven were convicted of terrorism charges amid condemnation by UN independent experts at the practice of secret executions where counsel and families of those on death row are not provided with notice.<sup>64</sup>

Analysis continues to demonstrate that the death penalty is disproportionately imposed on persons belonging to marginalised groups. A recent report from India shows that 62% of individuals on death row had a mental illness and

11% had an intellectual disability.<sup>65</sup> In the US, racial disparities in the use of capital punishment are clear with 10 of the 18 people sentenced to death in 2021 being people of colour. Foreign nationals, particularly migrant workers and women accused of drug offences, form a substantial part of the persons on death row in a number of retentionist countries and a tenth of all known death sentences for drug offences were imposed on foreign nationals in 2021.<sup>66</sup> For instance, around 30% of those on death row in Bahrain and 40% in Malaysia are foreign nationals.<sup>67</sup> In the mass execution

in March 2022, Saudi Arabia is reported to have executed eight foreign nationals.

Further, despite a clear international prohibition on the use of capital punishment for children, some countries continue to allow for it in law or in practice. In Iran, where more than 85 people are held on death row for crimes committed as children and where there is overwhelming public opinion against the death penalty for crimes committed by children, two people were executed in 2021 for crimes they committed before the age of 18.<sup>68</sup>

## 1.6 Life imprisonment

### → **An estimated half a million people are serving a formal life sentence (based on data published in 2019).**

The most recent worldwide data on life imprisonment, published in 2019, estimated that in 2014 there were 479,000 people serving a formal life sentence. However, this excludes informal life sentences – where the sentence imposed may not be called life imprisonment but may result in the person being detained in prison for life.<sup>69</sup> Furthermore, data available at the national level point to an upward trend in the number of life sentences imposed and also increased punitiveness in length, conditions and the types of offences that can attract a life sentence.

Between 2014 and 2020, the number of people serving life sentences increased by 28% in South Africa, 50% in Thailand, 33% in Poland and 17% in Canada. A few other countries saw a decrease in the same time span, such as in Finland (by 15%) and in Japan and Argentina, although the decrease was relatively small at under 5%.<sup>70</sup> There is also a decline of life imprisonment sentences imposed on children (see 2.2 *Children*).

Increased punitiveness in the imposition of life sentences – often in a context of general ‘tough on crime’ policies – have been seen in countries across the globe. In Ireland, where more than 1 in 10 people in prison is serving life, the minimum term before parole can be considered has been increased from 7 to 12 years. In New Zealand the first ever sentence of life without the possibility of parole was handed down in 2020, which was followed in 2021 by another case where a life sentence, with a minimum non-parole period of 27 years, represented one of the longest sentences of the country.<sup>71</sup> Data released on the US by the Sentencing Project in 2021 showed an increase of 43% in the number of women serving life without the possibility of parole since 2008 and detailed how one out of every 15 women in the country’s prisons is serving a life sentence, an increase of 19%.<sup>72</sup>

Efforts to reform or repeal the use of life imprisonment over the past year have involved constitutional appeals in several countries. In Spain, an appeal to the Constitutional Court failed with a ruling in October 2021 that upheld the use of life imprisonment. The country’s reinstatement of life imprisonment

in 2015 (after abolition in 1928) was challenged unsuccessfully by the Spanish Socialist Workers’ Party with the 7 majority votes to 3 coming from the conservative bloc.<sup>73</sup>

In Colombia, on the other hand, the Constitutional Court ruled in September 2021 that the recent introduction of life imprisonment (with a possibility of review after 25 years) for the crimes of rape and sexual abuse of children was unconstitutional. The Court found that life sentences are contrary to human dignity, threaten the guarantee of resocialisation of convicted persons and are a setback that risks dehumanising the penal system.<sup>74</sup>

#### Change in the number of people serving life sentences 2014–2020

South Africa	+28%
Thailand	+50%
Poland	+33%
Canada	+17%
Finland	-15%
Japan	-5%
Argentina	-5%

Other successful appeals to reform life sentences were seen in Italy and Ukraine. In the former, the Constitutional Court held, in April 2021, that the legal regime was unconstitutional for rendering individuals sentenced to life imprisonment for 'mafia-related' crimes ineligible for conditional release if they refused to collaborate with the judicial authorities.<sup>75</sup> The decision followed a judgment of the European Court of Human Rights (ECtHR) which found that requiring police cooperation as a condition for parole eligibility for people sentenced for mafia-related crimes was a violation of the prohibition against torture and inhuman or degrading treatment

and punishment.<sup>76</sup> A similar approach was taken in Ukraine, where the Constitutional Court held Ukraine's system of life imprisonment without possibility of review or release to be unconstitutional in December 2021, following an ECtHR finding that the system violated the European Convention.<sup>77</sup>

One driver for the increase in life sentences is the types of offences that attract them. The Global Drug Policy Index reports that life imprisonment can be imposed for drug-related offences in 14 of the 30 countries included in the Index.<sup>78</sup> In 24 of the 30 countries, life sentences are not imposed in practice for drug use and possession

for personal use, with the exception of Kenya, where the sentence is imposed 'frequently' (between 11 to 30% of cases). The Index reports that life sentences are imposed for drug supply offences 'frequently' (in 16 to 40% of cases) in Nepal and Thailand, and 'very frequently' (in 41 to 80% of cases) in Indonesia and Lebanon; in these four countries, life sentences are imposed without the possibility of parole.

## Part two

# Prison populations

Men make up most of the prison population globally, constituting 93% according to an analysis by the UN Office on Drugs and Crime (UNODC). Disaggregated data on who is in prison is not universally available, but country or regional trends indicate that over the past few decades, there have been some notable changes to the demographic of prison populations.

The number of women in prison has increased markedly by 33% over the past 20 years, which is a higher growth than the male prison population, which rose by 25%. In Africa, the female share of the prison population has remained stable at around 2.9% of the region's prison population, whereas Oceania, the Americas and Asia saw slight increases. In Europe, the proportion of women in prison has increased the most – from 4.2% of the region's prison population in 2000 to 6.5% in 2019 – a trend driven by a faster decline of men in prison relative to women (see *1.1 Imprisonment and prison overcrowding*).<sup>79</sup>

A change witnessed in a number of high-income countries in recent years is an increase in older persons in prison. The reasons for these increases vary from country to country, but extreme sentences, including life imprisonment and the death penalty, are playing a role. Longer sentences have contributed to people over 60 remaining the fastest growing demographic in British prisons.<sup>80</sup> In Australia, where there has been a 311% increase in the daily average number of older persons in prison in the last 20 years, reasons include a higher proportion of older persons being convicted

of offences which carry longer sentences, such as homicide and sex offences, as well as an increase in the prosecution of non-recent sex offences, and generally increased offending rates for older persons.<sup>81</sup>

In the US, 55% of people on death row in 2019 were over the age of 50,<sup>82</sup> and the latest statistics by the Department of Justice show 14% of men and 9% of women in prison are over the age of 55.<sup>83</sup> In the state of Florida, the number of older people in prison has grown by 77% in a decade, now making up over a quarter of the prison population. This has been attributed to mandatory sentences and led to calls for releases not least due to older detainees costing three times as much with increased healthcare costs.<sup>84</sup>

Release mechanisms triggered in response to the COVID-19 pandemic explicitly included older people in many countries,<sup>85</sup> given their higher risk from COVID-19, but it remains unclear whether and to what extent they benefited older people, as disaggregated data based on age is not available in most places. While older persons in the community, among other high-risk groups, are prioritised in most national COVID-19 vaccination plans, this often does not extend to older persons in detention (see *3.1 Prison healthcare*).<sup>86</sup>

Lesbian, gay, bisexual, transgender, and queer people (LGBTQ+) continue to be overrepresented at all stages of the criminal justice system. Although data is extremely scarce, where data is available, it is clear that LGBTQ+ people represent a disproportionately large demographic in prisons, and rising numbers in some places.<sup>87</sup>

Sixty-seven UN Member States still retain laws which criminalise consensual same-sex conduct and six of these require the death penalty as punishment.<sup>88</sup> In the absence of criminal conduct, LGBTQ+ people continue to be targeted by law enforcement based on discriminatory grounds such as perceived gender or sexual orientation. Last year in Cameroon, for example, two trans women were sentenced to five years in prison for 'attempted homosexuality, private indecency, [and] lack of a national identity card' as they had slept in the same house overnight and had feminine gender expressions.<sup>89</sup>

Reports continue to demonstrate that LGBTQ+ people face increased risk of violence and other human rights violations once arrested and in prison. In Argentina, it was found that 13% of people who cross-dress (see report: "travestis") and trans women in prison had been physically assaulted by prison staff, and 45% by other detainees.<sup>90</sup> There have also been reports of harassment, abuse and violence, including sexual violence, towards detained LGBTQ+ people in Turkey, Lebanon, India and Burkina Faso.

Correctional colony No 2 in Karymsky District, Russia.



**While men make up most of the prison population globally, constituting 93%, the rates of women have increased by 33% over the past 20 years.**

## 2.1 Ethnic minorities and indigenous peoples

→ **Ethnic minorities and indigenous peoples are disproportionately imprisoned in many countries, constituting up to 50% of national prison populations.**

→ **Indigenous women make up 60% of female prison populations in New Zealand, and 48% in Canada.**

Data on imprisonment of indigenous peoples and members of national, ethnic, religious or linguistic minorities remains incomplete or unavailable. Many countries either do not collect, disaggregate or publish data on the number and other information regarding persons from indigenous and minority communities in prison. In countries where data is available, however, the body of evidence of systemic racism in criminal justice systems is overwhelming, with people from minority and indigenous communities constituting up to 50% of prison populations – and the rate of over-representation is growing in many jurisdictions. In many cases this is linked to over-policing, prosecution and criminalisation of their communities.

In Ireland, Travellers are significantly over-represented in prisons, making up 6% of people in prison, despite comprising only 0.7% of the general population. In comparison to their settled-majority counterparts, Traveller males are 5-11 times more likely to be imprisoned and Traveller females 18-22 times more likely.<sup>91</sup>

In the US, the over-representation and discrimination of Black Americans in criminal justice systems continues at an alarming scale. The latest statistics on prison populations show that one in 81 Black adults is held in a state prison. Furthermore, Latino people are imprisoned in state prisons at 1.3 times the rate of white people.<sup>92</sup> In contrast, the proportion of American Indians and

Alaska natives in US jails (pre-trial facilities) is decreasing, dropping by almost 35% between 2019 and 2020, although some of this is explained by a general reduction in jail population numbers due to the pandemic, with the imprisonment rate in 2020 having been the lowest since 1992.<sup>93</sup>

Despite attracting attention for many years from both international and national advocates, indigenous peoples continue to make up large proportions of prison populations in several countries, including Mexico, New Zealand, Canada and Australia. In Australia, their proportion grew by 8% between 2020 and 2021, now representing 30% of the total number of people in prison, while only making up 3.3% of the general population.<sup>94</sup> In Canada, indigenous people now represent 32% of the federal prison population (despite comprising 5% of the total population), representing a historic high, following an increase of 18% over the last decade. Over the same time span, the number of non-indigenous people in prison has decreased by 28%. The country's federal corrections inspector reported this is due to the increased likelihood of indigenous people serving long sentences and being denied parole or conditional release. Indigenous women in Canada and New Zealand account for 48% and 60% respectively of all women in prison.

In Brazil, the Instituto das Irmãs da Santa Cruz estimates that the number of indigenous people in prison has increased by 40% between 2017 and 2019, reaching 1,080 people.<sup>95</sup> According to another organisation, Conselho Indigenista Missionário, between November 2020 and January 2021, there were at least 1,229 indigenous people in prison in Brazil, which represents a 13% increase compared to 2019. In one state, Roraima, a particularly steep increase in imprisonment rates was reported; between 2018 and 2020 the number of indigenous people in prison in Roraima increased by 574%.<sup>96</sup> This report also found that many people

belonging to indigenous communities did not identify themselves as such, for fear of facing discrimination. A February 2022 report of the Permanent Forum on Indigenous Issues examined the significant over-representation of indigenous children in prisons, including in Australia and Canada, and called for concrete action and the development of traditional restorative justice systems in consultation with indigenous peoples.<sup>97</sup>

Action is being stepped up at the UN to document and tackle the over-representation of people from minority and indigenous communities in prisons and criminal justice systems – an outcome of international condemnation following the killing and aftermath of George Floyd in 2020. A report in June 2021 issued by the UN High Commissioner for Human Rights on racial justice and equality noted the disproportionate presence of Africans and people of African descent in prison populations, referencing reports from Brazil, Colombia, Ecuador, Italy, Portugal, and the US.<sup>98</sup> Another initiative has seen the establishment of a UN independent expert mechanism in 2021 to examine systemic racism, excessive use of force and human rights violations by law enforcement.

Ethnic minorities and indigenous people commonly face harsher treatment in prison compared to their white peers. A recent report detailed how Māori and Pacific women in New Zealand were disproportionately segregated in units used for control and punishment. In one women's prison, up to 78% of segregations were of Māori women. As many as 93% of segregations lasting 15 days or longer (a period defined as 'prolonged' and prohibited by the UN Nelson Mandela Rules as a form of torture or cruel, inhuman or degrading treatment or punishment) were of Māori or Pacific descent.<sup>99</sup>

## 2.2 Children

→ **Around 261,200 children are estimated to be in detention globally.**

→ **Among 157 countries worldwide, more than half have released children from detention in response to the pandemic.**

Around 261,200 children worldwide are estimated to have been in detention on any given day in 2020, according to new data published by the United Nations Children's Fund (UNICEF) in November 2021.<sup>100</sup> This represents an increase from previous estimates of between 160,000 and 250,000 children detained on any given day in 2018, in the UN Global Study on Children Deprived of Liberty. The increase is especially significant given that, among 157 countries, more than half have released children from detention since the start of the pandemic and one-third had put alternatives to detention in place in response to the pandemic.<sup>101</sup>

The global average rate of detention is 29 children per 100,000 population.<sup>102</sup> This varies significantly between regions, with the highest rate of child detention in North America (137 per 100,000), followed by Latin America and the Caribbean (77 per 100,000) where the highest number of children are detained (50,300). The lowest rates of detention are in West and Central Africa and South Asia (8 and 12 children per 100,000 respectively). However, as UNICEF highlights, record keeping on the number and characteristics of children in detention commonly remains incomplete and unsystematic, which affects the reliability of available country data as well as regional and global estimates based on them.

Amid the release of this sobering data in November 2021, the fourth World Congress on Justice with Children was convened. The Congress culminated in the adoption

### NUMBER AND RATE OF CHILDREN IN DETENTION<sup>100</sup>

Region	Number of children	Rate per 100,00 population
North America	32,200	137
Eastern Europe and South America	8,100	41
South Asia	44,900	12
Western Europe	10,000	41
Latin America and the Caribbean	50,300	77
Western and Central Africa	8,100	8
Eastern and Southern Africa	48,600	45
East Asia and the Pacific	40,700	37
Middle East and North Africa	18,300	28
<b>World</b>	<b>261,200</b>	<b>29</b>

of a Global Declaration calling for action towards the development of justice systems which genuinely include children, guarantee child-friendly access to justice for all children without discrimination, and are resilient in the face of crises and pandemics.<sup>103</sup> The Declaration specifically calls for the development and use of age-appropriate, ability-inclusive, gender-responsive, and needs- and rights-based justice procedures and facilities for all children in contact with the law.

A number of regional themes emerged during the Congress and preparatory meetings. Experts from Jamaica and Trinidad and Tobago highlighted different approaches to restorative justice in the Caribbean and ways to ensure authorities listen to the voices of children in the justice system. Ways for children to become active parts of the organisations responsible for protecting their rights was central in Latin America, while in the US and Canada, raising the age of sentencing was identified as a key priority for reform to counter the criminalisation and 'adultification' of Black and Indigenous children that are often prosecuted like adults.

In the Middle East and North Africa, where diversion is still an emerging area that remains in the early stages, promising practices were identified

in countries, like Egypt, in this area. Data during the COVID-19 pandemic showed that at least 13 out of 20 countries in the region used existing forms of alternatives to detention to release approximately 3,000 children. Countries that more efficiently used existing measures to implement alternatives to detention had several elements in common: interagency coordination bodies and mechanisms already established between justice and child protection authorities, trained social workers, and follow-up services in coordination with the NGO sector.<sup>104</sup>

Children continue to face heightened risk of violence or ill-treatment in detention and feel the impact of COVID-19 measures. In England, inspectors at one prison found the rate of violent assaults on children had risen 70% in the past two years, during which time purposeful activity such as training and education had deteriorated and more than half of children were locked in their cells during the school day; this was despite a 40% reduction in the prison's population during that time.<sup>105</sup> Youth detention facilities in at least two US states have placed high numbers of children into quarantines that, in practice, may be little different from solitary confinement, despite the practice being rejected by



public health officials for adults as a non-medical, damaging and counterproductive response to the COVID-19 pandemic.<sup>106</sup>

In recent years, there has been momentum toward prohibiting corporal punishment of children in all settings, including in the penal system. As of October 2021, 144 states worldwide prohibit physical punishment as a disciplinary measure in penal institutions for children, and 169 have abolished judicial corporal punishment (whipping, flogging, caning).<sup>107</sup> A new law in Colombia in May 2021 means that indigenous children – who could previously be judged ‘according to

the rules and procedures in their own communities’ – can no longer lawfully be sentenced to corporal punishment. In 2020, Sudan abolished whipping and flogging in penal institutions and as a sentence for crime, replacing whipping with probation and community service. In Saudi Arabia, it was replaced with prison sentences and fines, but amputation and flogging remain lawful as a sentence for crime, including for children, under Sharia law.

Life imprisonment of children is also on the decline. Since 2008, five countries have abolished life imprisonment as a criminal

sentence for children entirely, and in many countries where it remains, fewer children are serving these sentences.<sup>108</sup> Globally, the sentence of life without the possibility of parole has been almost abolished for children, with the exception of some jurisdictions within the US despite Supreme Court rulings limiting its use and banning its mandatory application. Life imprisonment with the possibility of parole remains in at least 63 countries for offences committed by children, with two-thirds of these countries in the Commonwealth, demonstrating the strong legacy of the English criminal law tradition in this area.

## Spotlight on:

### 2.3 Young adults

→ **No global data exists on the number of young adults in prison due to differences in definitions and data collection practices across countries.**

→ **More countries are adopting specialised approaches to the treatment of young adults in the criminal justice system due to their distinct and complex needs.**

While in demographic analysis, individuals between 18–25 years of age are considered young adults, there has tended to be no distinction between children and young adults in prisons and the wider criminal justice system.

In most countries, the minimum age of criminal responsibility ranges between 7–16 years and the adult criminal process is triggered at the age of 18. A limited number of jurisdictions, like Japan and

South Korea classify those under 20 and 19 years respectively as children.<sup>109</sup>

Some countries have adopted specialised approaches to the treatment of young adults in the criminal justice system. Such moves are prompted by research showing that the human brain continues to develop and mature until the mid-twenties and that young adults who come into conflict with the law have distinct and complex needs. For instance, in Germany, young adults between 18–21 years are subject to proceedings before a specialised youth court, and judges have discretion to impose a sentence according to the juvenile law or a mitigated sentence according to adult criminal law.<sup>110</sup>

The Netherlands also has adopted an individualised model in trial and sentencing of young adults, either as adults or ‘juveniles’; the juvenile justice law can be applied to young adults between 18–23 years, and they may be

supervised by juvenile probation services.<sup>111</sup> This is meant to account for specific life trajectories and needs of young adults, though substantial discretion is provided to prosecutors on making the recommendation to apply juvenile criminal law. New Zealand permits designating persons between 18–19 years old as vulnerable young adults for the purpose of prison placement, and prison authorities must conduct a test within three days of the arrival of vulnerable young adults in prison to determine if they should be transferred to the youth unit.<sup>112</sup> More recently, the state of California in the US has ordered the closure of the state’s youth prisons by 2023. Upon closure of the facilities, children and young people between 15–25 years old who are accused or convicted of serious offences, who are currently held in these facilities will instead receive community-based interventions.<sup>113</sup>

Prison systems also take varied approaches on where young adults are detained. They may be housed

Teenagers in a juvenile prison  
in California, USA.

**Some countries have adopted specialised approaches to the treatment of young adults in the criminal justice system.**



either alongside adults, or as in the case of Morocco, entirely separated from other people in prison until 20 years and held in rehabilitation and education centres or youth detention centres.<sup>114</sup>

In Italy, children between 14–18 years old who are convicted are held in special prisons dedicated to youths under 21 years old, after which they are transferred to adult prisons.<sup>115</sup> In Croatia, young adults under the age of 21 are separated from adults, their criminal records are confidential and the system focuses on educative measures and alternatives to imprisonment through diversion.<sup>116</sup>

Overall, due to the absence of consistency across jurisdictions in the grouping of young adults as a separate population group, global data on the number of young adults in prison is not available. Where it is, it shows that the proportion of young adults among the prison population can be significant. In Argentina, 21% of the prison population are between 18–25 years old, in England and Wales, 14.5% are between the ages of 18–24, while in Peru, it is close to 11%. In India, 44% of the prison population is in the age group of 18–30 years, and young adults between the ages of 18–25 years constitute around 5% of the prison population in Japan with a similar proportion in federal prisons of the US.<sup>117</sup>

New research shows that many young adults, particularly in low-income countries, are imprisoned for petty offences including low level drug offences committed when they were children, for which they may be detained into early adulthood<sup>118</sup> and which are often committed under the threat of or actual coercion by adults.<sup>119</sup> While the likelihood of their involvement in serious crime has been found to

## AGE AND PROPORTION OF YOUNG ADULTS IN DETENTION

Country	Age group	Proportion of prison population
Argentina	18-25	21%
England and Wales	18-24	14%
Peru	18-24	11%
India	18-30	44%
Japan	18-25	5%
US	18-25	5%

reduce by mid-twenties with the appropriate interventions,<sup>120</sup> penal systems place excessive weight on punishment rather than specialised treatment, social protection, and rehabilitation.<sup>121</sup>

Studies have found that children and young adults often come from backgrounds involving violence, abuse and exploitation. For instance, 45% of the children and young adults in a youth justice centre in New Zealand had been in child protection and came from backgrounds of trauma and neglect.<sup>122</sup> The experience of young women coming into contact with the criminal justice system in England and Wales is also frequently underpinned by experiences of violence, abuse and exploitation, poor mental health, addiction, exclusion from education, poverty and having no safe place to call home.<sup>123</sup>

High rates of violent incidents are reported among young adults imprisoned, likely connected to complex mental health and social needs. In youth justice centres in the state of Connecticut in the US which house boys between 15–21 years and operate similarly to a prison, high incidence of fights and violent assaults as well as mental health issues for

the staff and boys have been recorded.<sup>124</sup> In England and Wales, as of December 2019, 30% of all disciplinary adjudications in prisons were initiated with respect to young adults.<sup>125</sup> Solitary confinement and restrictive regimes have been employed in Ireland and the US for young adults; it is reported they can spend almost 19–23 hours in solitary confinement without access to educational and recreational activities.

High rates of reoffending have been recorded for young adults, as for instance in Ireland, where official data shows that of people released from prison in 2015, 84% of those under 21 years re-offended within a period of three years compared to only 27% of those over 50 years.<sup>126</sup> More countries are turning their attention to providing tailored rehabilitation opportunities for young adults in prisons to reduce risks of recidivism. Japan is encouraging young adults in prison to connect with their community and acquire technical skills that could lead to employment on release and Finland is working towards providing individual tutors to young persons in prison below 21 years old who missed their education.<sup>127</sup>

## 2.4 Women

→ **More than 740,000 women and girls are in prison around the world.**

→ **Women make up less than one-fifth of the prison population in all countries worldwide.**

More than 740,000 women and girls are estimated to be held in prisons around the world.<sup>128</sup> Women continue to make up a minority of the global and national prison populations, accounting for 3% or less of all people in prison in 70 countries and territories worldwide (see 2. *Prison populations*).<sup>129</sup> For example, in late 2021, women made up 1.6% of the prison population in Pakistan, 3% or less in Georgia, Armenia, and Central African Republic, 5% in Peru and over 11% in Thailand. Hong Kong, Qatar and Macau have the highest proportions of women in prison, with 18.6%, 14.7% and 14.3%, respectively.

Most women in prison globally are charged or convicted for non-violent offences, and their imprisonment is often also related to poverty and the inability to pay fines or to afford bail. Many women are serving short prison sentences, despite a wealth of evidence showing that any period of imprisonment is damaging and disruptive for women and their families, especially any children.

Over recent decades, however, the number of people serving extreme sentences has increased significantly in some countries, with longer sentences and increases in the overall amount of time spent in custody (see 1.1 *Imprisonment and prison overcrowding*), and these trends have also been reflected among women in a few countries. Over the past 30 years, the number of women in prison in England and Wales serving an indeterminate sentence has grown from 96 in 1991, to 328 in 2021 (a 241% increase).

While the proportion of women serving indeterminate sentences initially declined between 1991 and 2005, it nearly doubled from 6% to 10% between 2005 and 2013, and has remained fairly constant since then.<sup>130</sup> A new report in the US shows one in every 15 women in prison – over 6,600 women – are serving a sentence of life (with or without parole) or a virtual life sentence of 50 years or more. The nearly 2,000 women serving sentences of life without parole can expect to die in prison. In addition, death sentences may be imposed in 24 US states and the federal government, with 52 women currently on death row.<sup>131</sup>

New research by PRI shows women serving long sentences often lack specialist support. While many of the issues faced by women serving long sentences reflect those of all women in prison, research demonstrates that the lengthy nature of their sentence can intensify the challenges. In Uganda, PRI found that 19% of women convicted for murder and manslaughter had killed a male partner or family member. Despite their history of domestic violence, however, these women receive limited access to psychosocial services due to an absence of qualified health practitioners in women's prisons.<sup>132</sup>

In the US, the Sentencing Project has highlighted that many women facing extreme sentences have experienced trauma and abuse; most have endured sexual or domestic violence, and the legal system has consistently failed to take their experiences into account, with imprisonment often exacerbating their trauma. Research among women serving at least 10 years in custody in England and Wales also identified the impact of previous trauma as one of three core issues that are likely to be significantly compounded by lengthy

prison terms due to the increased exposure to repeat traumatisation in the prison environment.<sup>133</sup>

The imprisonment of women for 'status offences' which only or disproportionately apply to women have led to fresh calls for reform from international human rights bodies, including the UN Working Group on Arbitrary Detention, which specifically recommended urgent reform of laws which criminalise acts such as abortion, adultery and prostitution.<sup>134</sup> The Inter-American Court of Human Rights has established for the first time that healthcare staff can no longer refer women to law enforcement who come to the hospital seeking reproductive healthcare, including abortion. The ruling was in a case involving El Salvador, which was found responsible for the death of a woman who was imprisoned for aggravated homicide after suffering an obstetric emergency that resulted in her pregnancy loss, and died in prison two years later after receiving inadequate medical diagnosis and treatment.<sup>135</sup> The Court ruled that the state violated her rights to life, health, judicial protections and guarantees, freedom from discrimination and gender violence, among others, and ordered El Salvador to reform its policies that criminalise women for seeking reproductive healthcare.

Elsewhere, a setback in sexual and reproductive rights was seen in Guatemala where a law passed in March 2022 punishes abortion with up to 25 years in prison. Human rights bodies have also criticised a new law enacted in Iran in 2021 which severely restricts access to abortion, contraception, and voluntary sterilisation for women. Under the new law, abortion, if carried out on a large scale, would carry the death penalty.<sup>136</sup>

**Spotlight on:**

## 2.5 Pregnancy and childbirth in prison

There is no global data on, or estimates of, the number of pregnant women in prison or the number of children born in prison globally. While the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) encourage non-custodial sanctions for pregnant women, many countries still permit the imprisonment of pregnant woman, with laws remaining silent on the issue.

A recent report details how 11 countries have enacted laws to either prohibit the imprisonment of pregnant women or severely limit the detention of pregnant women. Different measures have been taken including the exemption, deferral or substitution of sentences and the prioritisation of non-custodial measures such as house arrest and electronic monitoring.<sup>137</sup> In Brazil, for example, pre-trial detention is substituted with house arrest for all pregnant women and in Ukraine, pregnant women sentenced to up to five years in prison may be discharged on probation until the child reaches seven years of age. Pregnant women in Georgia can have their sentence suspended until their child is one year old, at which point the court can consider exempting them from serving their sentence or commuting it. In Armenia, detention is not imposed on pregnant women or on persons with a child below the age of eight in their care.

Some countries specify stages of pregnancy, or the like, where detention is to be limited or prohibited, such as the later stages of pregnancy. This is the case in Costa Rica (advanced stages of pregnancy), Nicaragua (last three months of pregnancy) and Colombia (two months or less before delivery). In addition to pregnant women, some countries also include 'nursing mothers' (Mexico), women with

'new-born babies' or in the post-partum stage (Brazil), and during the six months after birth (Colombia). In Ecuador, house arrest or electronic monitoring may be applied during pregnancy or the first 90 days after childbirth, plus another 90 days in the case of neonatal illness. Some countries also include all women with children under a defined age (one year in Georgia, three years Peru, seven in Ukraine, eight in Armenia, and 14 in Russia).

Many of these laws and policies are longstanding, but there have also been some recent developments. For example, in July 2021, Minnesota became the first US state to authorise the release of pregnant and postpartum people from prison to community-based programmes.<sup>138</sup>

For those who give birth while detained, childbirth usually takes place in hospital. In Romania, the prison service must transfer pregnant women to a prison hospital one month before their due date, and the prison hospital then transfers them to an external care facility to give birth. In some cases, however, women give birth in prison or during transfer to hospital. Analysis of hospital data revealed that six women in prison in England gave birth outside hospital in 2017/18 (over 10% of imprisoned women who gave birth), four in 2018/19 (over 10%) and one in 2019/20 (2%).<sup>139</sup>

In recent years, there have been reports of women giving birth alone in prison cells, including in the US and Australia. A number of cases involving the death of infants in prison have triggered investigations, calls for reform and, in some cases, action. In Sierra Leone, the death of a 17-month-old baby in a police cell with her detained mother in December 2021 led to the NGO AdvocAid calling on the Government to urgently review all cases of

pregnant women and women with young children detained in police stations and correctional facilities across the country.<sup>140</sup>

In England, the death of a baby after an 18-year-old gave birth alone in her prison cell, and another incident where a woman who did not know she was pregnant gave birth to a still-born baby in a prison toilet, triggered investigations by the Prisons and Probation Ombudsman which identified key failings in the healthcare provided to the women.<sup>141</sup> The Government has committed to providing extra training for staff on looking after pregnant women and to collect and publish data on the number of pregnant women in custody and births in prison. In the US, a 2018 law requires the collection of data on pregnancy outcomes in federal prisons, but this does not apply to the majority of women (85% in 2018) who are held in jails and state prisons. Findings from the Pregnancy in Prison Statistics (PIPS) Project and other data sets that aim to fill this gap suggest an estimated 58,000 admissions of pregnant women into jails and prisons every year, with pregnancy rates among young women in detention being similar to those among adults.<sup>142</sup>

Despite international standards that prohibit the use of shackles or other restraints during transfers to hospitals, gynaecological examinations and birth,<sup>143</sup> the practice persists in some limited places. In the US, at least 13 states fail to prohibit the shackling of detained pregnant women despite a prohibition in federal prisons. In Canada, where there is no specific legislation or policy in place to prohibit these practices, several women have reported being placed in solitary confinement or restraints like handcuffs and shackles while pregnant in prison.<sup>144</sup>

Cell in the nursery unit at the Nebraska Correctional Center for Women, USA.



**While the UN Bangkok Rules encourage non-custodial sanctions for pregnant women, many countries still permit their imprisonment, with laws remaining silent on the issue.**

## Part three

# Health in prison

## 3.1 Prison healthcare

→ **New waves of COVID-19 have led to fresh outbreaks in prisons with levels of infection similar or worse than the first wave of the pandemic in some places.**

→ **Pandemic-related restrictions and impact on resources have sometimes limited healthcare to emergency services.**

→ **As of 30 September 2021, available figures indicate that vaccination of people in prison had commenced in 120 countries, but priority afforded to detained persons in vaccination plans globally was low.**

As of April 2022, over 6 million deaths from COVID-19 globally have been reported to the World Health Organization.<sup>145</sup> Global data on COVID-19 infections and mortality in prisons was only collected until mid-2021. The impact, therefore, of new waves and variants on people in prison and staff working in detention facilities remains unclear, although national statistics suggest that it varies widely.

In a number of countries, new variants of COVID-19 and the loosening of restrictions have seen high levels of new infections among detainees and staff in prisons. New outbreaks have been reported in prisons in Bahrain, Canada, Ireland,

Iran and New Zealand, for instance, with new infections in some cases reaching peaks like those seen at the start of the pandemic in 2020. In Italy, over 1,000 detainees and prison staff tested positive for COVID-19 in January 2022.<sup>146</sup>

Data available shows that people in prison are more likely to die from COVID-19 than people in the community. In the US, the COVID-19 death rate in prisons is almost three times higher than that of the general population.<sup>147</sup> Taking into account deaths resulting from COVID-19, in Florida, the overall lifespan of people in state prisons has been reduced by four years.<sup>148</sup> In the UK, there has been a 40% increase in the number of deaths in prisons in the 12 months to September 2021, with most of these being attributed to COVID-19.<sup>149</sup>

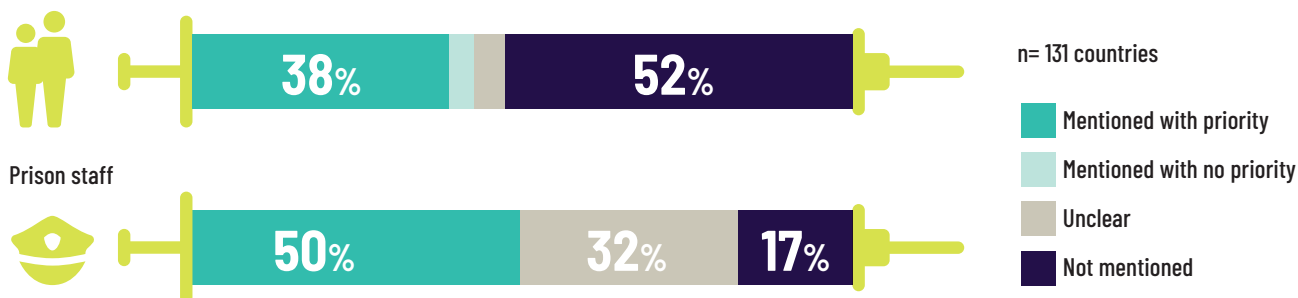
Analysis of Europe shows that, in many countries, COVID-19 infection rates in prison appear to have mirrored those in the community. Where infection rates were high in the community, they were also likely to be high in prisons, such as in Slovenia, Estonia and Belgium.<sup>150</sup> However, these figures can veil the reality that cases might be under-reported, as prisons often do not have the capacity and resources to collect such data systematically. In addition, where infection rates in prison had been kept low, this was often through strict infection prevention and control measures, including punitive and prolonged restrictions, at a huge cost to people's mental and physical well-being.

While the focus of infection prevention and control measures to mitigate the impact of COVID-19 has shifted from testing and isolation to vaccinations, many countries have low rates of vaccinations due to the inequality of supply. As of March 2022, 11 billion doses have been administered globally, but only around 14.4% of people in low-income countries have received at least one dose.<sup>151</sup> An in-depth study on vaccinations in prisons by PRI and Harm Reduction International (HRI) published in December 2021 concluded that the inclusion of people detained and working in prison as an at-risk or priority group in national vaccination plans has been contentious, leading to piecemeal and often insufficient implementation. Out of the 131 countries for which vaccination plans or other resources could be found, only 56 explicitly mention people in prison (43% of total). Prison staff are clearly, explicitly mentioned in 66 vaccination plans.<sup>152</sup> As regards the roll-out of vaccinations in practice, as of 30 September 2021, available figures indicate that vaccination of people in prison had commenced in 120 countries.

Even where vaccinations were readily available for prison populations, vaccination rates were sometimes lower than hoped due to a high level of vaccine hesitancy. This has been explained by wide-spread scepticism regarding prison medical systems and a lack of trust in prison authorities in some countries, as well as a lack of quality targeted evidence-based

## INCLUSION OF PEOPLE IN PRISONS IN AVAILABLE VACCINATION STRATEGIES<sup>152</sup>

### Prison population



information on the COVID-19 vaccination.<sup>153</sup> In some cases, such low vaccination rates were linked to new outbreaks, for example, in New South Wales, Australia, where the virus spread rapidly among those who had not yet been offered vaccination.<sup>154</sup> Therefore, education initiatives to address questions and concerns about the COVID-19 vaccination have been crucial in many countries to increase vaccination rates among people in prison, such as in Ireland.

There has also been widespread lack of clarity and transparency regarding planned and implemented vaccinations in prisons. Official government policies or other resources outlining national vaccination plans could only be obtained for 131 out of 177 countries surveyed (74%). Official information was particularly scant for African countries: out of 54 countries included in the analysis, official COVID-19 vaccination plans were only found for 34 countries (62%), and it could not be confirmed whether vaccination of detainees and prison staff had started in 27 and 31 countries, respectively.<sup>155</sup>

A grave indicator of the under-resourcing of prison health is the shortages of healthcare staff reported widely. For example, in Spain there are 200 vacancies for prison healthcare staff;<sup>156</sup> in Pakistan, out of the 193 posts of medical officers in jails, 108 have been reported vacant<sup>157</sup> and shortages are also reported in Armenia.<sup>158</sup> In Finland, despite a transfer of prison

health to the Ministry of Social Affairs and Health, there is a lack of specialists in prisons, placing an increased burden on prison nurses.<sup>159</sup> In many countries, the situation is equally if not more dire with regard to mental healthcare staff. In Romania, only 6 out of 38 penitentiary units employ psychiatrists.

Positively, there have been cases in some countries where the number of healthcare staff has been increased directly in response to the pandemic, including in Japan and Romania (by about 50 staff). There has been a more significant increase in Canada where there are now over 500 additional healthcare staff compared to February 2020, which includes 340 employed on a temporary basis in response to the pandemic. In Serbia, the prison administration is funding six medical specialisation programmes for young doctors as an incentive to join the prison service.<sup>160</sup>

A recent global study on the impact of the pandemic on prison health by the Thailand Institute of Justice found that not all countries have been able to provide timely diagnosis and medical attention for non-COVID-19 conditions.<sup>161</sup> Due to restrictions in many countries, coupled with the substantial resources directed to pandemic response, healthcare services for people in prison have had periods where they were limited to emergency services, sometimes for months.<sup>162</sup> There are reports from Bulgaria, Iran, Sri Lanka, Turkey and elsewhere, that people in prison with chronic health conditions were unable to access treatment or to be

transferred to hospitals.<sup>163</sup> External medical appointments including for physiotherapy, optical and dental care have been suspended for various periods in the UK and South Africa.<sup>164</sup>

COVID-19-related measures in prisons have impacted the delivery of drug use-related interventions in some prisons, including group activities, interventions provided by external service-providers and pre-release support.<sup>165</sup> While in Georgia, Estonia and Bosnia and Herzegovina, opioid agonist therapy continued to be provided to people in prison on a regular basis, in other places, like Lebanon, there were difficulties reported in implementing medical care and other support for people who use drugs. In Kenya, the large number of people released from prison in response to the pandemic – while positive in reducing prison overcrowding – reportedly curtailed access to critical drug treatment. Between March and June 2020, 15 European Union countries with available data reported severe disruptions to drug use services in prisons, including psychosocial counselling, group therapy and peer-led interventions, which continued to some extent throughout 2020.<sup>166</sup> In a few countries, such as France and Luxembourg, drug use services were scaled up again as of June 2020.

Other infectious diseases including tuberculosis (TB), HIV and hepatitis C remain a major challenge in many prisons around the world and new data shows cases are on the



Teaching yoga in Bomana Prison,  
Papua New Guinea.



**As the pandemic has progressed, new initiatives have been developed with prison staff and NGOs providing mental healthcare services despite ongoing restrictions.**

increase in prisons. In Central and South America, a study published in 2021 found that TB cases among people in prison have increased by 269% between 2000 and 2018. TB prevalence is concentrated among people in prison, with 11% of all TB cases occurring among people in prison.<sup>167</sup> Outbreaks of TB have been reported over the past year in Brazil's prisons as well as Venezuela.<sup>168</sup>

Since 2017, the estimated prevalence of HIV among people in prison has increased from 3.8% to 4.3%, meaning that people in prison are six times more likely to be living with HIV than the general population. There have been recent reports about HIV

outbreaks in prison in India<sup>169</sup> and a hepatitis C outbreak at a jail in Karachi, Pakistan.<sup>170</sup>

The disproportionate burden of HIV and hepatitis C in prisons remains linked to insufficient access to comprehensive harm reduction services in prisons, among other factors.<sup>171</sup> The number of countries providing HIV services has not significantly increased in recent years and, where they are available, coverage of and access to these essential services remain inadequate. For example, the number of countries providing condoms and lubricants in at least one prison increased from 40 in 2017 to 45 in

2020; those with needle and syringe programmes increased from 8 to 10; and those providing opioid agonist therapy increased from 52 to 59.<sup>172</sup> Out of the 124 countries with national viral hepatitis testing and treatment plans, only 28 (23%) have such interventions for people in prison.<sup>173</sup> Women in prison continue to be even more likely to be living with HIV than men in prison. The latest data from UNAIDS shows that through 2020, the average HIV prevalence among women in prison was 5.2% (n=63 countries) and 2.9% (n=74 countries) among men.<sup>174</sup>

## 3.2 Mental health

→ **Mental health conditions and mental or neurological disorders remain disproportionately high among prison populations and data suggests they are rising.**

→ **New evidence points to the significant impact of COVID-19 restrictions in prisons on mental health.**

Like in the community, the diagnosis and collection, analysis and dissemination of information on the prevalence of poor mental health or mental health conditions in prisons is generally only undertaken in high-income countries. Nevertheless, the data and anecdotal evidence available point to a worsening global mental health crisis in prisons. Rates of mental health conditions and mental or neurological disorders remain disproportionately high among prison populations and are rising in some cases. A broad range of evidence demonstrates that a reliance on criminal justice systems to respond to substance use and mental illness is contributing to this rise.<sup>175</sup>

For instance, in Ireland, 70% of people in prison live with a personality disorder,<sup>176</sup> more than 40% of people in prison in Italy and 60% in the Netherlands suffer from at least one mental health disorder,<sup>177</sup> and in England and Wales, 48% of men and 70% of women in prison experience mental health 'problems'.<sup>178</sup> Furthermore, a recent study from British Columbia, Canada, found that admission numbers of people who have both mental health needs and substance use disorders has doubled over the past eight years.<sup>179</sup>

The low priority afforded to mental healthcare in many prison systems is demonstrated by the lack of qualified mental health staff. In India, there is only one psychologist or psychiatrist for every 16,503 people in prison, with 21 states not having any prison psychiatrists or psychologists.<sup>180</sup> Prisons located in fragile and conflict-affected settings, and also those located in remote and rural locations, have a particularly dire shortage – or absence altogether – of specialised mental health professionals (see 4.5 *New prisons, planning and location*). A recent review of practices in eight European

countries found that although prison officers play a decisive role in identifying and supporting people with mental illness in prisons, training on caring for people with mental disorders is rarely provided or is reduced to a bare minimum, leading to inadequate support for detained people who suffer from mental disorders.<sup>181</sup>

The low levels of mental healthcare in prisons prior to the pandemic, particularly in low-income settings, have been exacerbated by it. The pandemic has brought both a drastic increase in the need for mental health support due to COVID-19-related measures in prisons, and a dip in mental health. An analysis of news articles from Liberia, Guinea and Sierra Leone, all countries affected by Ebola previously, found high effects of the pandemic on the mental health of people in prison and prison staff. Fear, confusion, and disconnect from reality were observed among people in prison – psychosocial impacts from the pandemic that were likened to 'psychosis'.<sup>182</sup>

New research on 10 countries has revealed the seriousness and wide range of mental health impacts from

COVID-19-related measures, such as an increase in the frequency and intensity of sleep problems, anxiety and self-harming behaviour (see 4.2 *Contact with the outside world*).<sup>183</sup> Reports continue to evidence the significant impact on the mental health of people held in quarantine or isolation that constitutes solitary confinement in many cases, including children, young people and women.<sup>184</sup> There was an increase in the number of reported incidents of suicidal behaviour in Puerto Rico's juvenile detention facilities and in the largest women's prison in Europe, HMP Bronzefield in England, where a 140% increase of self-harm in the past two years has been connected to a lack of visits from family members, especially children.

As the pandemic has progressed, new initiatives have been developed to provide mental healthcare services despite ongoing restrictions. Prison officers have been tasked with providing psychological support to meet the shortfall of specialised staff. In Greece, staff have been trained to screen mental health issues and address cases of self-harm and prevent suicide. In the Philippines, a pilot programme by the NGO, DIGNITY, built the capacity of prison staff to provide basic mental health services to people in prison through psycho-education techniques.

Civil society continues to play an important role in providing mental health support for detainees.

In Uganda, PRI is facilitating mental health training, screening and support for people in prison. Justice Project Pakistan has developed mental health awareness toolkits, which aim to support staff in dealing with people in prison with mental illness. In Lebanon, the NGO Restart provides mental health services in prisons in the North of the country as mental healthcare is otherwise not available in detention facilities.

## Part four

# Prison management

## 4.1 Security and violence

→ **Regular reports of torture and excessive use of force against people in prison in all regions of the world persist.**

→ **COVID-19 has shifted the dynamics of prison violence and continues to pose new challenges for authorities on how to maintain safe and secure facilities.**

Ensuring the safety of people in prison remains a huge challenge for prison administrations. The nature of prison violence varies from one location to another – from large scale prison unrest (often referred to as riots), gang-related violence and abuse against vulnerable individuals. Violence perpetrated by both people in prison and staff often targets particular groups of people, including those who recently arrived in prison. Despite continued global efforts to stamp out torture, people in prison remain at high risk, and prisons are unable to provide the safety, support and services that survivors of violence need.

COVID-19 has shifted the dynamics of prison violence and continues to pose new challenges for authorities on how to maintain safe and secure facilities. Lockdowns and staff shortages have made it more difficult for staff to assess and control risk through dynamic security approaches and to respond to violent incidents. Mounting

frustrations due to ongoing restrictions continue to increase the volatility of the prison environment.

The continuation of COVID-19 restrictions in many countries is having an ongoing influence on the extent and nature of violence inside prisons. There are also significant concerns that tensions which have been brewing during prolonged periods of isolation will lead to an escalation of violence as lockdowns continue to be eased.<sup>185</sup> It is also clear that while COVID-19 restrictions meant less mixing among people detained, prisons did not become safer as violence took on different, sometimes less visible forms, including bullying and harassment.

A review to understand the effects of the COVID-19 restrictions on people in prison by the prison inspectorate in England and Wales found that, during the pandemic, children reported an increase in the levels of verbal abuse and intimidation at cell doors during the day and from windows and across landings at night-time. Although this type of bullying has always been common in children's prisons, the increased length of time children were alone in their cells meant that the effect of verbal threats on them was more pronounced.<sup>186</sup>

There were fewer reported protests in prisons linked to the pandemic during 2021. A notable exception was a peaceful sit-in about conditions of detention in Bahrain, where authorities responded with excessive use of force. During the

protest against the lack of access to medical treatment, which has become chronic during the pandemic, police special forces used stun grenades, beat detainees on their heads, and took 33 protestors to another building where they were kept incommunicado, unable to contact families or lawyers, in violation of both national and international law.<sup>187</sup>

Staffing shortages have continued to have an impact on prison regimes. Fewer prison staff often means more restrictive regimes, as people are locked into their cells for longer periods of time, described by some as 'de facto solitary confinement'. There have also been widespread instances of people being unable to access services and support due to logistical implications of staff shortages. Staffing shortages also create more dangerous conditions in prison by making it harder to control violence, which in turn makes working conditions even more perilous and taxing for staff, as has been noted in Australia and several US states.<sup>188</sup>

There are also indications that sexual violence may have increased during periods of restrictive measures.<sup>189</sup> In Australia, concerns were raised that continued lockdowns could put people with psychosocial or cognitive disabilities at heightened risk of violence, including sexual violence, especially with limited independent oversight of facilities.<sup>190</sup>

Sexual and gender-based violence in prisons continues to be under-reported and receives inadequate attention from authorities and other actors. A new report on countries in the Organization for Security and Co-operation in Europe (OSCE) concluded that the issue is often not adequately integrated into prison oversight, monitoring or response mechanisms.<sup>191</sup> In Canada, authorities were criticised after a report published in 2020 about the prevalence of sexual coercion and violence in federal correctional institutions continues to receive a slow response.

Research continues to show that men and boys are at high risk of sexual violence in places of detention. A new study on sexual violence in male prisons in Kenya found that such violence was rampant and that authorities failed to document and address the issue.<sup>192</sup> Sexual violence against men and boys in fragile and conflict-affected states has attracted some attention recently (see 4.7 *Fragile and conflict-affected states*).

The needs of survivors of sexual violence in detention are also rarely adequately met or recognised. In the US, recent initiatives have sought to enable imprisoned survivors of sexual violence to become part of the #MeToo movement and share their stories even though they are not able to do so via social media.<sup>193</sup>

Regular reports of torture and excessive use of force against people in prison in all regions of the world persist. Authorities in Argentina reported 176 alleged cases of torture or ill-treatment in federal prisons in 2020 and 77 from January to June 2021, and 16 violent deaths of people detained in federal prisons in 2020.<sup>194</sup> In Ecuador, hundreds

of people were killed in prisons in gang-related violence during 2021. The violence has been linked to a lack of rehabilitation programmes, overcrowding and a lack of properly trained administrative and front-line staff.<sup>195</sup> In December 2021, the Ecuadorian President announced an expert commission to investigate and help end prison violence. In New Zealand, women in segregated housing were subjected to strict and prolonged solitary confinement and routinely disciplined, violently restrained, forcibly stripped of their clothing and searched.

The availability of drugs – or lack thereof – in prisons, is also closely linked to levels of violence and the maintenance of security. In some countries, reductions in prison visiting led to a reduction in drug supply, which led in turn to a spike in violent unrest and increasing fears of violence against staff. In other countries, including Scotland, there has been a recent rise in seizures of psychoactive drugs such as ‘spice’ as methods of smuggling contraband changed.<sup>196</sup> Concerns have also been raised that, as in-person prison visits resume, there is a high risk of overdose among those who stopped or reduced their drug use during family visit suspensions.<sup>197</sup>

Reports show that prison staff remain at high risk of violence in carrying out their work. In Canada, a survey of female employees of the Correctional Service found that nearly 40% said they do not feel mentally or emotionally safe at work, and nearly one-third reported being the targets of harassment or violence in the past five years because of their gender.<sup>198</sup> In Trinidad and Tobago, there have been recent systematic acts of violence towards prison personnel, including the killing of two officers and threats of death against others.<sup>199</sup> In England and

Wales, assaults on prison staff have increased by 247% since 2010, with one in four staff reporting being physically attacked at work over the last year, and one in ten having been assaulted twice or more in the same period.<sup>200</sup>

Despite the challenges facing prison systems, there have been some promising practices and innovative approaches to the prevention of torture and effective implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This has included the establishment of new or updated complaints mechanisms and improvements in access to information and systems of communications. In December 2021, the Southeast Asian National Human Rights Institution Forum (SEANF) adopted new guidelines on torture prevention in partnership with the Association for the Prevention of Torture. This initiative will help to inform the work of the six national human rights institutions from the region in Indonesia, Malaysia, Myanmar, the Philippines, Thailand and Timor Leste.<sup>201</sup>

## 4.2 Contact with the outside world

→ **Restrictions on prison visits have been lifted in some countries and reimposed in others as new outbreaks and variants of COVID-19 emerged.**

→ **Costs of making phone calls from prisons remains a challenge for many detainees.**

For people in prison, the onset of the COVID-19 pandemic in 2020 brought severe restrictions on contact with the outside world on the grounds of containing the spread of the virus. By 2021, many prisons around the world had resumed some form of in-person visitation and continued the use of technological innovations that has been brought in or expanded to mitigate the impact of the pandemic.

However, as newer strains of the virus emerged and cases spiked, restrictions on contact with the outside world were put in place again or in some cases, had never been lifted. Kenya permitted in-person visitation for the first time in November 2021 after commencing vaccinations.<sup>202</sup> As of November 2021, a ban on prison visits has remained in place in Togo and in Thailand, where limitations like prior permission for visits by lawyers and strict time limits for video calls also remain in place.<sup>203</sup> New outbreaks in Spain led to restrictions on in-person visitation being reimposed and people were locked in their cells for hours without explanation, which caused anxiety and further deterioration of their mental well-being.<sup>204</sup> In South Africa, people in prison with children felt that the restriction on in-person visits to one family member affected their ability to connect with their children.<sup>205</sup>

Common measures which have been sustained in many prisons worldwide since the start of the pandemic, regardless of restrictions, include the increased use of digital

tools and phone calls. In Ireland, an average of 1,800 virtual visits were facilitated each week (among a prison population of over 3,700) when physical visits were suspended between March and July 2020.<sup>206</sup> Prisons in Portugal permitted daily phone calls of 5 minutes and a video call of 20 minutes, and women in prisons in Croatia were allowed longer telephone calls with their children. In Mexico, where in-person visits resumed on an appointment basis in March 2021, video and telephone calls have been retained for those who are unable to receive visitors.<sup>207</sup> In an unprecedented move, the province of Buenos Aires in Argentina and seven prisons in Chile permitted people in prison to use their mobile phones for virtual contact with families while visits were suspended.<sup>208</sup>

However, this greater reliance on technological tools has also led to challenges. People in prisons have reported problems with access, such as delayed or limited availability and disruption of phone lines. In Serbia, where people under sentence are entitled to at least four 15-minute phone calls per week, the European Committee for the Prevention of Torture noted that certain overcrowded sections had insufficient supply to meet their allocation, such as one section with only two telephones for 147 people.<sup>209</sup> In Brazil, issues with downloading the video calling app, the lack of privacy in overcrowded prisons and the presence of prison officers during calls were common concerns.

A lack of accommodations to preserve privacy has also impacted lawyer-client confidentiality. For instance, people detained in federal prisons in the US are subject to electronic monitoring to use emails and refusal to consent results in being locked out of communications.<sup>210</sup> Physical mail is also being phased out as state prisons seek to switch from a paper-based system to digitising mail that can be viewed as a printout or on a tablet.<sup>211</sup>

Moreover, the shift to digital tools to contact lawyers did not always result in improved access to counsel.

In India, while close to 94% of prisons are enabled with videoconferencing systems, access to justice during the multiple lockdowns has been limited. For instance, lawyers were reportedly unable to confidentially confer with their clients during hearings – unless the judge permitted a phone call – as other actors were also logged into the videoconferencing system and the individual is typically in the presence of prison staff.<sup>212</sup> In Indonesia, many death penalty trials took place over virtual platforms, leaving defendants unable to fully participate in the process or consult with their counsel.

Many countries employ user-pays phone systems in their prisons, and costs are typically high. In the US, on average, a 15-minute call can cost more than USD \$5.<sup>213</sup> In 2021, the Federal Communications Commission set caps on inter-state call charges, but in-state call charges remain excessively high.<sup>214</sup> Prisons in England and Wales reduced the cost of phone calls, provided phone credit and an additional allowance to children, a move that was welcomed but not uniformly implemented across prisons as phone credits ranged from GBP £5–£20.<sup>215</sup> Subsequently, as visiting regimes return, the scheme has been retained only for women as the inability to meet children and families has particularly impacted the mental health of women in prison with rates of self-harm having increased.<sup>216</sup>

Detainees in Kenya, South Africa and Brazil also found themselves lacking in funds to make phone calls as they rely on family, who have been unable to visit, for cash, phone credit and other essentials.<sup>217</sup> Similarly in Turkey, people in prison were permitted to make an additional 10-minute call to their families each week but were not provided with phone cards, and only those with sufficient cash could take advantage of the measure. In Hungary, people in prison were required to provide a security deposit of USD \$118 to access a device provided by the prison, in addition to paying higher than general rates to make calls.<sup>218</sup>

## 4.3 Rehabilitation and reintegration

International consensus has shifted from punitive approaches to rehabilitative-based prisons, with their methods having better overall outcomes for people detained and released from prison.<sup>219</sup> In some countries there are extremely well-developed rehabilitation programmes. However, constant under-resourcing, coupled with overstretched staff and overcrowded prisons mean that rehabilitation programming remains extremely limited or non-existent in some places, especially in low-income countries. The challenges COVID-19 presents to prison management continues to impact effective implementation of rehabilitation and the scope, quality and relevance of specific programmes for individuals in prison and the community more broadly.

The critical role prison staff play in rehabilitation is increasingly recognised, reflected in a general trend towards aligning prison officers' roles with rehabilitative principles and shaping roles or specifically designating staff as rehabilitation officers, as seen in Singapore. In many cases, however, the role of prison staff in rehabilitation is not matched by corresponding levels of training, support or acknowledgement of the increased demand in terms of staff time, skills, and competencies. For example, a study on employment quality of prison staff in four European countries found that prison staff are now expected to combine surveillance and rehabilitative functions. It found that structural understaffing, overcrowding and lack of training makes it impossible for them to do both functions effectively and that this results in significant work-related stress and a corresponding deterioration in the quality of services they deliver.<sup>220</sup>

Investment in supporting prison staff has been proven to promote rehabilitation in two studies in Ghana and Italy. A survey of more than 1,000 Ghanaian prison staff revealed that those who felt confident in their role and who had good relationships with people they supervise were more supportive of rehabilitation initiatives.<sup>221</sup> The results from the Italian study found a strong link between prison staff training and the rehabilitation of foreign nationals in prison.<sup>222</sup> Conversely, lack of staff support for rehabilitation can result in deliberate efforts to impede or undermine such programmes, and staff may actively discourage individuals from participating in them.

The effects of the pandemic on staff numbers in prisons (see 4.4 *Prison staff*) as well as inadequate training initiatives and working conditions of prison staff continue to inhibit the successful delivery of rehabilitation and reintegration programmes. For example, in Kenya, detainees who relied on tutors to bring in physical material were seriously affected during the pandemic and, further, found themselves unable to take university exams when they shifted to an online format.<sup>223</sup>

COVID-19 has led to a range of innovations in facilitating rehabilitation programmes. In Indonesia, virtual sessions were held with prison staff on designing prison-based rehabilitation programmes and brands of prison products to foster social reintegration. In Ukraine, new rehabilitation programmes developed in 2021 focused on retaining family ties while in prison and problem-solving as transferrable skills for people in prison. In England and Wales, as of March 2022, Employment Advisory Boards are being rolled out following a successful trial in 20 prisons.

The Boards are chaired by business experts from big companies and act as a link between prisons and employers to ensure people leaving prison have the right skills and links to stable job opportunities on release.

There is a growing trend of peer mentoring for people in criminal justice systems, with programmes existing in a number of countries, including Sweden, Finland, the UK, Canada, Australia, Mozambique and Israel, as well as in the regions of Siberia and parts of Central Asia. Their effectiveness in improving rehabilitation, as well as health, has been evidenced in new research. In the US it was found that lived experience of imprisonment confers credibility and that peers can offer very practical advice for life after prison.

Peer mentorship in substance dependency programmes and for people involved in gangs were areas of particular value.<sup>224</sup> In Canada, peer programmes at the time of release from prison were proven to be beneficial when other services were reduced or suspended due to COVID-19. While the pandemic highlighted existing deficiencies in social support systems, peer programmes were able to respond flexibly and offer the additional practical and emotional support needed in preparing for release during the pandemic.<sup>225</sup>



**International consensus has shifted to rehabilitative-based prisons, with their methods having better overall outcomes for people detained and released from prison.**

Detainees working in a prison workshop in Muret, France.



## 4.4 Prison staff

➔ **Prison staff are facing new and changing responsibilities, reduced staff levels (in many cases due to the pandemic), which, alongside other challenges, are taking a heavy toll on their mental and physical health.**

➔ **Innovative ways to support prison staff in response to common challenges are emerging.**

Severe staffing shortages in prisons are continuing and even worsening in some jurisdictions, impacting on the ability of prisons to ensure safety and security, provision of adequate healthcare, rehabilitation programmes and daily regimes of prisons in the context of the pandemic.

The common and well-known challenges shared across prison systems worldwide in maintaining adequate staffing levels mainly relate to poor working conditions and inadequate remuneration. However, the global pandemic has brought additional challenges to prison staffing shortages. In the US, where prisons had staff vacancies in every state in 2020,<sup>226</sup> the pandemic and its impact on the labour market is cited as a key reason for the worsening prison staff shortages.<sup>227</sup>

The pandemic also brought wide scale absences of prison staff due to infection and/or isolation rules in a number of countries. One analysis in the US found that at one point during the pandemic one in six jail staff had been absent due to infection or quarantine.<sup>228</sup> Similar trends were noted in England and Wales<sup>229</sup> and Ireland, where in early January 2022, over a third of all prison staff were absent on COVID-19 leave.

Vaccine mandates for prison staff also led to shortages where applied. Several states in the US

and Australia which employ vaccine mandates, and some provinces in Canada, banned unvaccinated staff from working in prisons. In Western Australia, a union for prison officers stated that a vaccine mandate contributed to a shortage of some 800 prison officers across the state.<sup>230</sup>

The pandemic has brought new and changing responsibilities for prison staff. As well as the challenge of managing infection prevention and control measures in detention settings, staff are absorbing additional duties and working overtime.<sup>231</sup> In some prisons, staff without healthcare training have been required to undertake healthcare duties such as assisting with testing and vaccinations (see 3.2 *Mental health*).<sup>232</sup>

As COVID-19 vaccinations have been rolled out, there has been considerable variance in the prioritisation prison staff were accorded in national vaccination plans. Research by PRI and HRI found that of the 131 countries for which vaccination plans could be found, half explicitly mentioned prison staff and a third included prison staff in the highest priority for vaccination. As of 30 September 2021, vaccination of prison staff had started in at least 94 countries, with the situation in many countries unclear.<sup>233</sup> A general lack of information on COVID-19 vaccination among prison staff was identified, partly because prison staff comprise a variety of professions which may place them into different prioritisation groups. Prison staff are also often vaccinated in the community based on general priority factors such as advanced age or health risks, and in such cases data on their vaccination as a group is usually not recorded.

The pandemic has exacted a heavy toll on the mental and physical health of prison staff. In China, research found that frontline prison staff have

been experiencing psychological stress as a direct result of managing the pandemic in prisons.<sup>234</sup> In Ireland, prison staff stress levels have increased during the pandemic with 25% of respondents to a survey reporting 'high stress levels' at work prior to the pandemic, which increased to almost 60% during the pandemic.<sup>235</sup>

In response to the demanding nature of working in prisons, new initiatives and programmes to support staff have emerged, some triggered by the pandemic and many provided by NGOs. In Tunisia, organisations with experience in psychosocial support have been able to provide such support to prison staff during COVID-19,<sup>236</sup> and in England, an NGO is providing yoga and meditation classes to staff in 12 prisons to help them cope with work stress during COVID-19.<sup>237</sup> In Kenya, the Psychiatric Disability Organization Kenya began providing psychosocial support to prison staff in Nakuru to help assist with mental health needs during the pandemic.<sup>238</sup>

In Thailand, online support services were run for prison staff with a focus on assisting with work-related stress. The programme ran for over 10 weeks and involved therapeutic art sessions, group counselling and mindfulness, benefitting 30 members of staff, with 85% of them reporting that it had had a positive impact. Also, the country's Department of Corrections recently published guidelines for mental healthcare for prison staff and people in prison to prevent stress or mental health problems during the pandemic, with recommendations for reducing anxiety and a mental health assessment form.<sup>239</sup> Another government-led initiative was seen in Peru, where prison staff have received a bonus of around USD \$190 in recognition of the additional risks they are exposed to due to the pandemic.<sup>240</sup>

## 4.5 New prisons, planning and location

→ **The global prison capacity expanded by at least 437,000 spaces under new plans announced or construction commenced in 2021 alone.**

→ **New prisons are increasing in scale as well as geographical remoteness.**

The rise of the global prison population and corresponding prison overcrowding levels has triggered investment in new or expanding prison facilities in many countries. For example, the European Committee on the Prevention of Torture has noted that in certain European countries, substantial sums are being spent on building new prisons and/or adopting policies to expand the capacity of the prison estate.<sup>241</sup> This is in spite of overwhelming evidence that investment should be directed into the drivers of such increases given that 'building new prisons is very expensive and not a long-term solution to overcrowding', as the International Committee of the Red Cross has stated.<sup>242</sup>

The general lack of transparency on prison policy means information on government projects to build new prisons is not always public. The information available shows that in countries where there is a strategy to expand prison capacity, construction is taking place at a rapid pace. Open-source research indicates that in 2021, at least 24 countries have announced plans for or initiated construction of new prison facilities.<sup>243</sup> These new facilities amount to an increase of about 437,000 further spaces, with huge increases in Turkey and Sri Lanka in particular. However, because this estimate does not account for the refurbishment or expansion of existing facilities, and given the difficulty in acquiring information, this number is a conservative estimate, and the actual increase in prison capacity globally is expected to be much higher.<sup>244</sup>

Prison overcrowding is commonly cited as the primary driver for investment in new prison facilities, although in many cases the new capacity suggests governments expect an increase in the prison population. In Turkey, where construction began on 131 new prisons between July 2016 and March 2021,<sup>245</sup> there are plans to increase prison capacity by over 266,800 spaces by 2024.<sup>246</sup> Authorities point to overcrowding, along with the need to upgrade old facilities, as reasons for their significant investment in prison construction as the prison population continues to rise (Turkey has the highest imprisonment rate among all Council of Europe Member States).<sup>247</sup> However, a report on the rapid expansion of their national prison footprint found that where old facilities were being replaced, they were 'traded for mass prison complexes'.<sup>248</sup>

Also, in 2021, the Sri Lankan government announced its plans to build an enormous 200-acre prison complex in Millaniya, Horana, which would allow for 100,000 people to be detained across the country's some 60 detention facilities, three times its current population. Overcrowding levels currently sit at 190%, meaning 28,000-30,000 people are held in prisons with an available capacity of 10,000 people. The complex would comprise dedicated facilities for women, children and people on remand, and different security levels, as well as a drug rehabilitation centre, a farm and a sports facility.<sup>249</sup> Other countries building new prisons in response to overcrowding include Angola, Belgium, Colombia, Costa Rica and France.

In England and Wales, where the prison population has almost doubled in 25 years,<sup>250</sup> government projections foresee a further increase of just under 100,000 by March 2026, putting this down to the recruitment of an extra 23,400 police officers.<sup>251</sup> In response there are plans to create 18,000 additional prison places by the mid-2020s,

### NUMBER OF NEW PRISONS IN PLANNING OR BEING CONSTRUCTED<sup>243</sup>



which includes building four new prisons, expanding four others, and completing ongoing construction of two prisons, attracting an investment of GBP £4 billion.<sup>252</sup>

Some prison construction initiatives are triggered by the need to replace older and outdated facilities. This trend is mainly seen in Europe (a region that has seen a recent drop in prison numbers). For instance, in Finland, five of six new prisons are intended to replace existing old facilities.<sup>253</sup> In Armenia, a new prison close to the capital, Yerevan, with capacity for 700 people is to replace three older prisons. In addition, a small facility with capacity for around 50 people is in the plans to accommodate so-called 'prisoner leaders' who are responsible for sub-cultures, an informal hierarchy of detainees in which leaders exert different levels of authority on their peers and prison staff, under which violence and corruption are rife. Spain is also constructing a new prison in San Sebastian to replace the city's existing prison and refurbishing 53 other prisons, and Serbia has embarked on a programme of facilities upgrading in line with EU standards which has expanded prison capacity by about 2,000 spaces since 2018 through the construction and entry into service of new prisons and sections of prisons.



**Prison overcrowding has triggered investment in new and often larger prison facilities in many countries despite evidence that this is ‘not a long-term solution’ to the issue.**

Aerial view of Five Wells Prison in Wellingborough, United Kingdom.

With some exceptions, there is a general trend for new prisons to be the largest yet. An example of this is in Norway where new facilities are aborting the country's small-scale units which typically housed around 30 people. As many of these units become old with outdated infrastructure they are being replaced by much larger facilities and in recent years every new prison being constructed sets a record as the country's largest. Annual budget cuts for prisons have driven this change, although there is concern that the investment in the move to larger facilities, coupled with reduced funding, will have an impact with lower staffing levels, increased time in cell and less capacity to run rehabilitation programmes.<sup>254</sup> Similarly, in New Zealand a new prison expected to open in 2022 will be the country's largest, with 500 spaces, and an additional 100 spaces for mental health and addiction services.<sup>255</sup>

Some countries are explicitly following an 'American model' of massive prison complexes. In Egypt, the President announced last September that an 'American-style' mega prison will soon be opened. It will reportedly have a capacity of some 30,000 people, making it the largest prison in the country. In Turkey, the floorspace of new prisons constructed after 2016 has reportedly increased by an average of 50%, compared to the period between 2012 and 2016, when the failed coup took place, creating mass prison complexes.<sup>256</sup>

A movement to reverse this trend of large prisons in favour of smaller prisons is garnering support. In Europe, a network of organisations, Rescaled, is advocating for a shift away from prisons to the concept of small-scale detention houses. Support centres around the growing body of evidence that prison architecture and design is critical to achieving humane treatment of people imprisoned and achieving positive outcomes. In the Netherlands, in place of two high security facilities for youth, five small

scale lower-security facilities have been opened; three of them in 2021.<sup>257</sup>

Where information regarding the size and location of new prison constructions is publicly available, it is clear that there is generally a trend towards not only increased scale but also geographical remoteness. This is largely owing to the significant amount of real estate required, and costs involved, in or near densely urban sites.

There is evidence that prisons in rural spaces can bring positives, as detailed in a recent study on prison location in England and Wales which found that surrounding greenspace was related to lower levels of self-harm and violence in prisons.<sup>258</sup> There may also be better opportunities for agricultural vocational and rehabilitation activities, and for prisons to be self-sustaining with prison farming initiatives. However, common concerns arise about the negative impacts of rural prisons, particularly with regard to contact with the outside world and the availability of services.

Prison healthcare services tend to be worse off in rural areas. In Burkina Faso, only the two major prisons in the two largest cities Ougadougou and Bobo-Dioulasso are visited by a volunteer psychiatrist every two weeks, whereas in the other 27 prisons in the country, this service is not available. Similarly, in Lebanon, medical centres are available only in three of the country's prisons that are all in urban centres (Qobbeh, Tripoli and Zahle prisons). In Nigeria, where there are around 200 general psychiatrists in the entire country for a population of over 200 million people, 70% of these psychiatrists are located in or around cities, resulting in significant unmet mental health needs in prisons in underserved regions. In Uganda, mental healthcare in rural prisons has been described as poor or non-existent. Infrastructure in rural areas can be lacking too, as seen when a

new prison in Ethiopia was built in a rural area and faced difficulties in accessing water supply.

The ability to maintain contact with families and other support networks is also affected by distance from urban areas. An extreme example of this is seen in a prison in southern Peru. Challapalca prison is situated at an altitude of 4,600 metres, representing the highest altitude prison in the world; the location is harsh, with extreme weather and often freezing temperatures and is, therefore, not easily accessible for relatives, lawyers or medical services.<sup>259</sup> In Lebanon, where it is common for people to be held in prisons far from their hometowns, it has been difficult for families to visit in the past couple of years due to the country's fuel shortage amid the acute economic crisis.

Multistorey prisons in urban centres in US metropolises, such as Chicago and Miami, are being looked to as a way to expand prison capacity in cities by other jurisdictions. In Mumbai, India, authorities are set to build a multistorey prison in the city which has a shortage of land, amid rising prison numbers and overcrowding. Authorities point to the US examples as a model, one that is still being pursued. A facility that is part of the controversial plans to replace the notorious Rikers Island prison complex in New York with four smaller jails is a high-rise jail in the middle of Manhattan. While there are benefits to keeping people imprisoned in cities so they can be close to their support networks and other services, high-rise prisons in high-density urban settings have attracted criticism. Outdoor space can be at a shortage and multistorey facilities without the required adjustments to infrastructure can pose difficulties for older persons or those with other accessibility needs.<sup>260</sup>

Over recent decades, there has been increasing interest in engaging private companies and public-private partnerships (PPP) for the construction and running of new prisons.<sup>261</sup> In some countries,

such as the US, UK, Australia, and South Africa, it has been common for private companies to be contracted to build, and then run prisons in their entirety. In Brazil, several PPP to build and operate prisons are planned, for example in Santa Catarina state and in São Paulo, as part of efforts to reduce overcrowding. In Kazakhstan, the government has entered a PPP to

build 40 new prison facilities before 2025, under a wider strategy to modernise the prison system.

A few jurisdictions have, however, started to turn away from engaging private companies in the running of prisons, citing poor conditions and treatment in their facilities. US President Joe Biden issued an executive order shortly after taking

office in January 2021 aiming to end the use of private detention facilities for those in federal criminal custody. In 2021, the last private prisons in Queensland, Australia were returned to state control, with the Corrective Services Minister citing challenges in ensuring people detained in privately operated facilities are treated humanely and have appropriate access to programmes and services.

## Spotlight on:

### 4.6 Water and sanitation

→ **Prisons around the world face water shortages, unsafe and contaminated water and insufficient sanitation facilities, especially in conflict settings and low and middle-income countries.**

→ **Prison overcrowding is a major contributor in all regions to inadequate water and sanitation facilities in prison.**

In 2020, 26% of the global population did not have safely managed drinking water and 46% lacked sanitation services. According to UN Water, achieving universal access to drinking water by 2030, as set out in the 2030 Agenda for Sustainable Development, requires a substantial increase in investment in water and sanitation facilities. Just as the quality and quantity of water varies in rural and urban areas and depending on a country's level of income and development, access to clean and safe water in prisons also varies significantly between countries and even facilities within a country.

Shortages of water in the community are often felt harder in prisons, particularly in conflict

areas and low- and middle-income countries. Prison overcrowding and the lack of resources and infrastructure have led to a dire shortage of water in many prisons, both for drinking and preparing food and for sanitation. In Sub-Saharan Africa where one out of three people have no handwashing facility at home,<sup>262</sup> water supplies in prison remain sub-standard. In a number of countries like Central African Republic, Malawi, Uganda, Ethiopia and Senegal, toilets are often non-functional, and water points for toilets and showers are sometimes built near sanitation outflows.<sup>263</sup> In Lebanon, which is affected by an economic and political crisis, prisons are facing shortages of basic hygiene supplies, lack of resources to undertake repairs to potable water access and people in prison do not have sufficient funds to purchase clean bottled water where tap water is polluted.<sup>264</sup>

In other regions with water scarcity, supplies in prisons are also a low priority. A 2021 report on Haiti by the UN detailed how detainees in cramped conditions have limited access to water and had to use buckets due to the lack of latrines.<sup>265</sup> In Nicaragua and Pakistan, the same water supply, often provided in one bucket, must be used for washing, cooking and

drinking.<sup>266</sup> In Colombia and Peru, where facilities rely on supply from neighbouring areas, prisons are affected by water shortages or damage to water supply lines.<sup>267</sup> Prisons are increasingly expected to be affected by drought in urban areas.

In high-income countries, the availability of water for drinking, cooking and sanitation is typically affected in facilities that are old or dilapidated and receive inadequate capital investment. The European Committee for the Prevention of Torture found that, in some European prisons, detainees have been expected to purchase bottled water using their limited funds when prisons were unable to fulfil their needs.<sup>268</sup> They also found that access to showers and toilets can be limited and that water supply can be irregular or halted without adequate warning or alternative arrangements.

In Armenia and England and Wales, communal showers were reported to be of low quality, lacked effective ventilation and drainage, and were not sanitised regularly. In Finland, the practice of 'slopping out' – manually emptying containers used as toilets in cells overnight due to lack of in-cell sanitation – ended in 2020 when Hämeenlinna Prison was replaced. The practice still exists

**Prison overcrowding and the lack of resources and infrastructure have led to a dire shortage of water in many prisons for drinking, preparing food and for sanitation.**



Collecting buckets of water for bathing and laundry at La Esperanza Prison, Honduras.

in two prisons in Ireland, which are yet to benefit from the reform process to provide in-cell sanitation following a Supreme Court decision which found the practice breaches the constitutional right to dignity and prohibition of inhuman and degrading treatment.<sup>269</sup>

There is evidence that denial of water for drinking and sanitation continues to be used as a punitive measure. New research coming out of North Korea's penal system by the NGO, Korea Future, has revealed such practices. An absence of sanitation facilities was found to be characteristic of many detention facilities in the country, with reports of detainees being forbidden by correctional officers from maintaining personal hygiene.<sup>270</sup>

Prison overcrowding is a major contributor in all regions to inadequate water and sanitation facilities. Along with limited access to sanitation, clean water and healthcare, it compounds the risk of infections in prison. In Lebanon's largest prison, which is operating at four times its capacity, over 100 people reportedly share a single toilet, which creates the conditions for the rapid spreading of diseases.<sup>271</sup> People in a prison in South Africa, where the prison occupancy rate was 127.2% as of March 2021, have reported instances where they had to use buckets instead of toilets as prisons are overcrowded and there are limited toilets, toilet paper, soap and other cleaning materials. This resulted in unhygienic conditions and illness.<sup>272</sup> Further, in prisons in Turkey, water is provided for one or two hours a few times a week for showers and washing, and many can shower only once a week.<sup>273</sup>

There are also cases where the water supply in prisons is unsafe to drink. In Mexico, for instance, 60% of detainees with access to water do not think it is safe for consumption. There have also been reports of prison water supplies

being contaminated by toxins and sewage. The consumption and use of contaminated water, stagnation of waste and leakage of wastewater from pipes, or more generally the lack of access to clean water and sanitation facilities, are factors which increase the risk of transmission of diseases and illness in prisons.<sup>274</sup> In Myanmar's Insein prison, people developed skin rashes and lesions when they were forced to use dirty and sedimented water as a result of overcrowding.<sup>275</sup> In the US over the last three years, water in prisons in Texas has been contaminated by arsenic, and in Arizona by petroleum from a gas station, making it unfit for consumption. Women in New York prisons who consumed contaminated water after Hurricane Ida faced serious gastric ailments, while those who could not afford to purchase bottled water were forced to ration their daily water consumption based on the prison's limited supply.<sup>276</sup>

The COVID-19 pandemic and outbreaks of other infectious diseases like cholera have brought to light the impact of inadequate water supply in many prisons on those detained and staff. In Venezuela, the lack of clean water, which in turn contributes to the lack of sufficiently nutritious food and hygiene, resulted in high levels of hunger and disease in prisons, significant deaths from malnutrition, and allowed for the rapid spread of the COVID-19 virus.<sup>277</sup> In Iran and Turkey, amid COVID-19 outbreaks, reports from 2020 reveal insufficient access to running water, alongside cleaning supplies, and protective equipment in overcrowded conditions.<sup>278</sup> Similarly in Bahrain, two outbreaks in 2021 have been attributed to overcrowding in which water access and hygiene was an issue. In Sierra Leone's prisons, inadequate water and sanitation facilities meant toilets could not be flushed, affecting air quality inside prison facilities and cells.

In other places, following international calls to mitigate the impact of COVID-19 on prison populations globally, action was taken to improve access to water. In a number of African countries including Uganda, Malawi and Kenya, water tanks and soap were procured, and work has commenced to renovate accommodation to improve ventilation and access to water.<sup>279</sup> In Haiti, UNICEF commenced a programme to install 390 handwashing stations in the country, including in prisons.<sup>280</sup> In Tanzania, 35 handwashing stations with clean water, soap and drainage facilities were installed in four prisons to contain the spread of COVID-19. Elsewhere, like in Panama, a plan to combat potable water shortages in prison has been enacted, which includes bringing in new tanks for transportation, opening new wells and distributing surplus water from some prisons to others in need.<sup>281</sup>

Women, as a minority population in prisons, continue to face specific challenges in accessing water. For instance, people formerly held in a detention centre in Rwanda have described 'deplorable and degrading conditions' in the rooms for women and children, with irregular access to drinking water, sometimes only once a day with a small amount for everyone to share.<sup>282</sup> A 2019 report described how women in prison were housed in facilities with broken-down toilets and irregular water supply and could not access toilets during the night. In Cameroon, Nigeria, Sierra Leone and Zimbabwe, women were forced to use buckets which had to be cleaned manually.<sup>283</sup> Many prison facilities for women in Iran face acute water shortages in the summer, and in one women's prison, reports claim that only five toilets and three showers are available for almost 300 women.<sup>284</sup>

## 4.7 Fragile and conflict-affected states



→ **As the pandemic continues, prisons in fragile and conflict-affected states lack even basic equipment to prevent outbreaks and provide healthcare for people who contract COVID-19.**

According to World Bank estimates, by the end of 2020 close to 82.4 million individuals were forcibly displaced and an additional 20 million people are now living in extreme poverty in the countries affected by conflict.<sup>286</sup> Over the past year, ongoing conflicts in some of the worst affected states like Syria, Somalia and Yemen continued while unrest in Myanmar, Afghanistan and Ethiopia intensified.

In February 2022, Russia invaded Ukraine and the President announced that people with combat experience would be released from prison. By March, 33 prisons were in active conflict zones and at least five prisons had been attacked by Russian troops, according to Ukraine's Ministry of Justice. Prisons in the conflict zones have had difficulty providing for basic needs like food, medicines and hygiene supplies, as well as electricity generators, cars and body armour, with the prison system taking measures to evacuate people to detention facilities in other regions of the country.

As the pandemic continues, prisons and detention centres in fragile and conflict-affected states lack even basic equipment to prevent outbreaks and provide healthcare for people who contract COVID-19.<sup>287</sup> Further, millions in conflict settings are yet to receive a single dose of the COVID-19 vaccine – by 2021, only

1.2% of the population in Ethiopia, South Sudan and Yemen were fully vaccinated, 3.5% in Somalia and 4% in Syria.<sup>288</sup>

There is limited information on vaccinations in prisons in conflict areas. As of September 2021, among the countries classified as sites of high and medium intensity conflicts by the World Bank, vaccinations of people in prison and prison staff had commenced in Libya, Central African Republic and Mozambique, but the progress was unclear. Less than 10% had been vaccinated in Myanmar, Cameroon and Burkina Faso compared to over 80% vaccinated in Afghanistan and Iraq. Vaccinations had not commenced in Haiti, Burundi and Chad, and no information was available for nine countries, including the Democratic Republic of Congo, Syria, Yemen and Ethiopia.<sup>289</sup>

The pandemic has also created new challenges such as fears of reduced donor funding and interference with vital access to NGOs and other humanitarian assistance organisations who play an important role in monitoring prison contexts, providing developmental assistance and rebuilding justice systems.<sup>290</sup> For example, in July 2021, the International Committee of the Red Cross (ICRC) reported being unable to resume its purely humanitarian visits and activities in prisons in Myanmar, which have been on hold since the onset of the COVID-19 pandemic. It did, however, regain access to people in prison in the Tigray region

of Ethiopia, to provide basic needs, water and sanitation, and help people contact their families.<sup>291</sup>

Poor detention conditions and the torture or ill-treatment of people detained following armed conflict has been the subject of several high-profile cases recently. In early 2022, as part of efforts to seek accountability for torture and inhuman treatment of detainees in Syrian prisons, a German court convicted a Syrian official of crimes against humanity, and the US imposed fresh sanctions on Syrian prisons and officials.<sup>292</sup> In January 2021, the European Court of Human Rights ruled that the conditions of detention of Georgian civilians and prisoners of war in Russia following the 2008 conflict violated the prohibition of ill-treatment due to the lack of space in the detention centres, insufficient bedding, poor sanitary conditions, lack of basic health facilities, and the humiliating treatment of detainees.<sup>293</sup> This could have significant implications for the detention of Armenians in prison conditions far below the minimum acceptable standards following the armed conflict between Armenia and Azerbaijan in 2021.

In conflict areas, the lack of stability, constant power struggles and frequent escalations in civil wars continues to make prisons a vulnerable target for external attack and prison escapes. In March 2021, al Shabaab militants stormed a jail in Somalia and freed 400 individuals,

### COVID-19 VACCINATIONS IN PRISONS IN CONFLICT SETTINGS (AS OF SEPT 2021)<sup>288</sup>

Over 80% vaccinated	Afghanistan, Iraq
Less than 10% vaccinated	Myanmar, Cameroon, Burkina Faso
Vaccinations started, progress unclear	Libya, Central African Republic, Mozambique
Vaccinations not commenced	Haiti, Burundi, Chad
No information available	DR Congo, Syria, Yemen, Ethiopia



**In conflict areas, the lack of stability, constant power struggles and frequent escalations in civil wars continues to make prisons a vulnerable target for attack and prison escapes.**



People gather at a prison struck by warplanes in Hodeidah, Yemen.

many of whom were imprisoned al Shabaab members, and killed seven soldiers.<sup>294</sup> One of the first actions of the Taliban after it seized power in Afghanistan was to take over the infamous Pul-e-Charkhi and Bagram prisons and free the Taliban members who were imprisoned. In Yemen, a January 2022 airstrike targeted a Houthi rebel-run prison and is claimed to have killed at least 82 detainees and wounded 265 persons.<sup>295</sup> A major prison break in Haiti – where the political situation was once again in turmoil in the background of allegations of an attempted coup in 2021 – led to at least 250 people escaping from prison and the death of 25 bystanders.<sup>296</sup>

Recently, conflict-related sexual violence against men and boys has gained greater attention including at the UN Security Council open debate on conflict-related sexual violence in 2021. There have been reports of men and boys being used for forced labour, use as human shields, and sexual exploitation. According to a 2021 UN report, out of 18 conflict-affected states, the majority of incidents of sexual violence against men and boys occurred in detention settings.<sup>297</sup> In Afghanistan, the practice of *bacha bazi*, or the commercial sexual exploitation and abuse of boys and young men, by security forces has been documented.<sup>298</sup>

Children are often subject to harsh detention conditions and treatment in fragile and conflict-

affected contexts, including the lack of adequate food and medical services. Between 2019 and 2020, 318 children, mostly of non-Afghan nationality, were held in prisons and detention centres in Afghanistan with their mothers who were detained on grounds of association with the Taliban or ISIL-K.<sup>299</sup> Further, children of ISIS members in Syria and Iraq are imprisoned in a detention camp for families, and once they reach the age of 18, they are transferred to the general prison alongside wounded ISIS fighters. In the conflict in early 2022 to take over the prison in Al-Hasakeh, Syria, which houses around 700 young boys, ISIS fighters reportedly moved into the part of the prison holding the boys and used them as human shields.<sup>300</sup>

## 4.8 Natural hazards and extreme weather

→ **Prisons are often not accounted for in hazard risk management, disaster mitigation plans or in the aftermath of dealing with climate disasters.**

→ **In 2021, fires in prisons in Indonesia and Burundi resulted in at least 40 fatalities.**

Weather, climate and water hazards have accounted for 50% of all disasters, 45% of all reported deaths and 74% of all reported economic losses worldwide between 1970 and 2019. Although overall deaths from such disasters have decreased in this period, 91% of all deaths occurred in low-income countries.<sup>301</sup>

While governments and societies contend with addressing drastic climate change events, prisons are often not accounted for in hazard risk management, disaster mitigation plans or in the aftermath of dealing with climate disasters in both higher and lower income countries. In response to this, PRI issued new guidance in 2021 on disaster risk reduction for prisons, representing

the first of its kind. Based on primary research, it presents practical measures with a human rights-based approach for practitioners and frontline staff working in prison systems.<sup>302</sup>

Extreme weather is increasingly claiming more lives – close to 9.4% of global deaths each year are attributable to extreme heat or cold<sup>304</sup> – and has long been a major concern for people in prisons. An inquiry by the National Human Rights Commission in Chad found 44 people died in a prison in one night because they were all kept in a dangerously overcrowded cell at 46 degrees Celsius.<sup>305</sup> Even in high-income countries like Australia, temperatures in the summer can reach 50 degrees Celsius inside prison cells with no air conditioning.<sup>306</sup> A similar absence of air conditioning in prisons in Texas and Mississippi in the US resulted in lawsuits to install air conditioning after a heatwave saw temperatures soar over 37 degrees Celsius.<sup>307</sup> During a particularly cold winter in New York in 2020, when temperatures hovered around -15 degrees Celsius, prisons were not equipped with sufficient heating and warm clothes or secure windows that



could keep the cold out.<sup>308</sup> Prison staff too are similarly affected by extreme temperatures and have sued the prison system for related health issues.<sup>309</sup>

Extreme weather can also have indirect impacts on the living situation of people in prison by raising the risk of violence. A global study of 57 cities between 1995 and 2012 found that an overall one degree Celsius increase in temperature is associated with a 6% average increase in homicides, and regional variations in the impact of the rise in temperature on violent crimes

## THE IMPACT OF NATURAL DISASTERS AND EXTREME WEATHER ON PRISONS



### HEALTH & LIVES

Fatalities, ill-health, spread of infection

### INFRASTRUCTURE

Damage to facilities, water supply, communications

was also observed.<sup>310</sup> Research in Mississippi in the US, one of the states that does not provide air conditioning in prisons, found that on days with an average temperature of 26 degrees Celsius or more, violence in prisons increased by 20%.<sup>311</sup>

The high rates of overcrowding in prisons across the world also impact how people in prison experience

natural hazards and other disasters. Overcrowded prisons exacerbate the conditions of extreme weather, in particular due to limited ventilation and outdoor time, as well as with other hazards like prison fires. In 2021, fires broke out in prisons in Indonesia and Burundi and at least 40 fatalities were reported. The prisons in both countries were severely overcrowded and held at least three times their capacity, allowing for the fire to spread rapidly while making it extremely challenging for those in prison to find means of escape.

In Madagascar, two successive cyclones and related flooding in February 2022 caused significant damage to five prisons and blocked roads left prisons without food and drinking water. In Mananjary Prison, which reportedly holds three times its official capacity, overcrowding exacerbates limited food and water supplies, leaving detainees without adequate nutrition. The roof was blown off the prison by the high winds and reports suggest people had to squat all night in the prison chapel as there was not enough space to lie down.<sup>312</sup>

The absence of disaster management plans and effective responses focused on prisons has induced fears among people detained in the face of a disaster, leading to escapes and prison unrest. After earthquakes in Chile, Indonesia and Nepal for instance, many attempted to escape as prison walls collapsed, water flooded the buildings, and food and water were in low supply. In Australia, unrest erupted in a prison following the lack of air conditioning during extremely high summer temperatures in 2018.

Further, the absence of contingency planning, especially during water-based disasters, can have ripple effects like contamination of the water supply, food shortages, overflowing toilets and the spread of infections – all of which further affect the physical and mental health of those who are imprisoned.<sup>313</sup> As COVID-19 hit alongside natural disasters like a tornado in South Carolina and Hurricane Ida in Louisiana in the US, prisons had to initiate sudden transfers and mandatory evacuations in the midst of the pandemic, cutting off individuals from their families.<sup>314</sup>

## Part four

# Role and use of technologies

→ **There is a growing trend around the world to improve digital literacy among people in prison in recognition of the importance of digital skills for all aspects of life.**

→ **The complex nature of increasing technology in prisons raises ethical, human rights and practical challenges, including concerns around privacy.**

Prisons and wider criminal justice systems have continued to invest in building their digital capacity, accelerated by need in the context of the COVID-19 pandemic.

In a context where digital literacy is recognised as critical to development and as a human right since 2016, there is a growing trend to improve digital literacy among people in prison.<sup>315</sup> People being released from prison must be equipped with the digital skills required to reintegrate into their communities to access social security, jobs, healthcare, and insurance, among other things. Moreover, the pandemic has driven even more parts of daily life online.

In response, new initiatives have been ramped up over the past year to improve digital literacy in prisons in many countries. For example, a prison in the state of Bihar, India, launched a digital literacy campaign involving over 500 people in prison to teach them how to operate computers and other digital devices to browse the internet, receive emails and make online payments.<sup>316</sup> Similar efforts are underway in the

state of Kansas, US, where digital literacy programmes are being designed for women in prison to equip them with the skills required to apply for jobs and enable a smooth transition upon release.<sup>317</sup>

Digital literacy is more and more required for daily life, also in prison, with technologies being implemented in an increasing number of aspects of prison regimes, including rehabilitation, contact with the outside world, and healthcare. For instance, in England, telemedicine has been rolled out in prisons nationally, albeit with some delays owing to security concerns, approval for the tech solutions and inadequate secure internet connections.<sup>318</sup> Together with NGOs, one prison in Lebanon installed a digital health monitoring system and a remote psychological clinic. Thailand has also made available a telepsychiatry system in 60 prisons and correctional institutions, and in 2021, 3,359 people in prison had used the services.<sup>319</sup>

Many countries lag behind in providing access to the Internet in prisons. Technological infrastructure and a dire shortage of resources are common in low-income settings, but in others Internet bans are in place in prisons on the grounds of security. In France, such a policy has come under criticism by the Inspector General of Prisons who recommended it be overturned on the grounds that many rights are precluded by the ban such as accessing legal information.

Canada also retains a ban on Internet access in prisons, although a recent change now allows defendants without legal representation access

for legal purposes, albeit under supervision and limited to a specified time period. It has also been reported that under these conditions the authorities have not been able to grant all requests for such access.<sup>320</sup> The European Court of Human Rights weighed in on the debate in a 2021 case against Turkey. The Court found that while prison authorities can legitimately restrict access to certain sites, they had violated the right to access information by refusing the pre-trial detainee access to websites of the European Court of Human Rights, the Constitutional Court and the Official Gazette, for the purpose of preparing his defence.<sup>321</sup>

Programmes to prepare people in prison for employment in the ever-expanding tech sector upon release are on the increase in some areas of the world. In 2021, a prison in Guyana organised a 12–15 weeks long digital skills training for 15 men and 15 women on web design, development and foundational word processing tools. Prisons in Netherlands, Spain, Portugal and Romania have implemented programmes like 'Coding Out', which teaches computer programming skills and facilitates job placements in software development after release, and the TRIANGLE project for youth in closed settings, which aims to help them develop a personal digital portfolio.<sup>322</sup>

The trend towards smart prisons and in-cell technology has taken off, especially in high-income countries, with more prison services digitising facilities aiming to improve security, efficiency and access to services and rehabilitation opportunities. For instance, under the 'Smart Prisons

A computer class at Chiang Mai Women's Correctional Institute, Thailand.

**Many countries lag behind in providing access to the internet in prisons – some due to a lack of technological infrastructure, others due to internet bans.**



Project' in Finland, a prison opened in 2021 had all cells equipped with a laptop and system that can be used to contact prison staff, healthcare services and partner NGOs; to make video calls; and to access the Internet for the limited purposes of study, online shopping and managing daily affairs.<sup>323</sup> Similar projects are also underway in Turkey, where a pilot scheme in a woman's prison in Ankara to integrate smart tech aims to enable prisons with touch screens linked with biometrics that will connect detainees with services they need without relying on staff.<sup>324</sup> Kazakhstan has also introduced a range of digital measures including an online store to be accessed by people in prisons and their families and has established electronic terminals in prisons which people can use to submit requests, complaints and appeals to the various internal monitoring bodies.<sup>325</sup>

Owing to the complex nature of introducing such technology in prisons, ethical, human rights and practical challenges remain. For example, user-pay schemes, as seen in the state of Oklahoma in the US, have resulted in significant costs for people in prison to access

legal books, college classes, music and to even communicate with families through tablets provided. This has compounded fears that the shift to digital technologies at the cost of paper-based systems like law libraries and postal mail will negatively impact those in prison.<sup>326</sup>

Human rights concerns, particularly with proportionality and privacy arise with the increase in technologies to scan and monitor the behaviour of detainees. For example, in Australia surveillance in one prison is intended to be tied to digital privileges for individuals who practice 'acceptable social behaviour'.<sup>327</sup> On the other hand, there may be some benefits in using such technology, such as to monitor health, as used in another Australian facility and in Hong Kong, where electronic bracelets enable the monitoring of vital signs and location, reducing risk of self-harm and alerting staff when medical care is required.<sup>328</sup> Improving safety of staff and detainees is also driving the use of advanced security systems. In Thailand, for instance, there is a pilot project underway involving the use of body cameras, CCTV with facial recognition and use of artificial intelligence to prevent abuse in custody.

There is a growing shift from legacy systems to digital technologies for prison and case management in criminal justice systems. With the support of UNODC, 52 prisons in Bolivia have moved to automated records of people in prison, aiming to improve coordination among different bodies working on issues relating to prisons.<sup>329</sup> China's Jiangsu province is working on using blockchain technology to manage prisons by setting up an integrated online platform incorporating more than 800 functions and 1200 procedures.<sup>330</sup> In light of overcrowding and under-resourced prisons, Pakistan's federal ombudsman directed the integration of the biometric identification system with the criminal justice departments to improve efficiency and coordination.<sup>331</sup> India is in the process of setting up an Integrated Criminal Justice System, which will link the police, courts and prisons on one platform to facilitate real-time information exchange, including 'FASTER', a new electronic system to transfer e-authenticated copies of bail orders to prisons to enable immediate release.<sup>332</sup>

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### **About Penal Reform International**

Penal Reform International (PRI) is a non-governmental organisation working globally to promote criminal justice systems that uphold human rights for all and do no harm. We work to make criminal justice systems non-discriminatory and protect the rights of disadvantaged people. We run practical human rights programmes and support reforms that make criminal justice fair and effective.

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### **About the Thailand Institute of Justice**

Thailand Institute of Justice (TIJ) is a public organization established by the Government of Thailand in 2011 and officially recognized by the United Nations Office on Drugs and Crime (UNODC) as the latest member of the 'United Nations Crime Prevention and Criminal Justice Programme Network Institutes' (PNIs) in 2016. One of the primary objectives of the TIJ is to promote and support the implementation of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (or 'the Bangkok Rules'). In addition, the TIJ strives to serve as a bridge that transports global ideas to local practices with an emphasis on fundamental issues including interconnections between the rule of law and sustainable development, human rights, peace and security.

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