

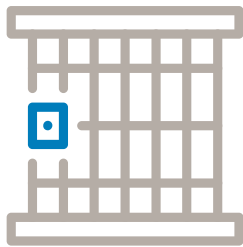


HIV AND PEOPLE IN PRISONS AND OTHER CLOSED SETTINGS

HUMAN RIGHTS FACT SHEET SERIES

2021

OVERVIEW

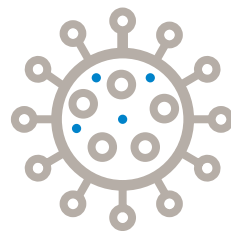


It is estimated that on any given day, there are at around 11 million people in prison (1). Prisons and other closed settings have a high prevalence of HIV, hepatitis B and C and tuberculosis (TB) infections.

People in prison are 7.2 times more likely to be living with HIV than adults in the general population (2).



Prisons and other closed settings are often seriously neglected in country responses to address HIV. Access to HIV prevention, treatment and care services is often interrupted on admission, transfer and release (3).



People in prison have the right to the highest attainable standard of health and to accessible health services, including for HIV and TB, without discrimination. The services should be equivalent to those available in the community (4, 5).



The COVID-19 pandemic has highlighted the human rights concerns inherent in crisis situations, with high rates of COVID-19 acquisition and mortality among people in closed settings due to overcrowded, poorly ventilated and unsanitary conditions, as well as reductions in access to justice (6, 7).

THE DATA

Globally, on average, **4.4%** of people held in prisons are living with HIV, according to recent data reported to UNAIDS (8).



Though data is limited, it is thought that approximately **15.1%** of the total prison population has hepatitis C, 4.8% has chronic hepatitis B and 2.8% has active TB (9).



Women in prison are five times more likely to be living with HIV than other women (10).

Among the countries reporting on prisons to UNAIDS in 2019 (12):

06 of 104 had needle and syringe programmes in at least one prison (civil society reported 10 countries) (11).

20 of 102 had opioid substitution therapy programmes in at least one prison (civil society reported 59 countries) (11).

37 of 99 had condoms and lubricants in at least some prisons.

78 of 105 countries had a policy that HIV testing be available at any time during detention or imprisonment.

104 of 105 countries had a policy that antiretroviral therapy be available to all prisoners.



GLOBAL AIDS TARGETS 2025

95% of people in prisons and other closed settings know their status, 95% who know their status are on treatment and 95% on treatment are virally suppressed.

90% of prisoners used condoms at last sexual activity with a non-regular partner.

90% of prisoners who inject drugs used sterile needles and syringes at last injection.

15% of prisoners use pre-exposure prophylaxis in very high risk settings.

100% of prisoners have regular access to appropriate health system or community-led services.

90% of prisoners have access to post-exposure prophylaxis.

90% of prisoners have access to integrated HIV, TB and hepatitis C services.

INTERNATIONAL RIGHTS OBLIGATIONS, STANDARDS AND RECOMMENDATIONS

People in prisons have the same rights as everyone else, except for lawful limitations caused by incarceration. People in prisons continue to have a right to health, privacy, non-discrimination and freedom from violence, among others (4, 5, 13, 14). States have an obligation to provide medical treatment and preventative measures:



On an equal basis with that provided in the community.

With specific needs of different populations met.



Equivalent to that available in the community.

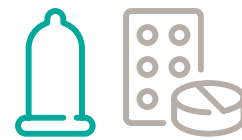
With continuation of care upon release (4, 15).



The deprivation of liberty must only be on the grounds of and in accordance with procedures established by law. It cannot be arbitrary or discriminatory (16). Where appropriate, states should resort to non-custodial measures (4). Pretrial detention must not be the general rule and should be an exceptional measure (16, 17).

International human rights bodies and experts have recommended the decriminalization of consensual same-sex sexual behaviour (18), all aspects of sex work (19, 20), gender identity (21), HIV exposure, non-disclosure and transmission (22), and to find alternatives to criminalization for drug use and possession for personal use (23, 24) as a critical element in protecting against rights violations and ensuring the enjoyment of rights, including the right to health (25–28).

Gender-specific health-care services, at least equivalent to those available in the community, should be provided to women prisoners. Women should be examined or treated by a female health service provider, if requested (29).



Under the right to health, states have an obligation to provide HIV and harm reduction services, and TB, sexual and reproductive health and mental health services, among others (4, 30–33).

UNAIDS, United Nations Office on Drugs and Crime, United Nations Population Fund, World Health Organization, International Labour Organization and United Nations Development Programme recommend 15 comprehensive and essential interventions for effective HIV prevention, testing, treatment and care in prisons and other closed settings, which reflect international obligations (2, 34). In terms of HIV, the interventions include HIV prevention, testing and treatment, including condoms, lubricant and harm reduction services, and post-exposure prophylaxis; measures to address sexual and reproductive health; guidance for strengthening gender-responsive approaches and prevention of vertical transmission; and specific interventions for other key populations (such as hormone therapy for transgender persons), women, adolescents and young people (2).

Training should be provided to prison personnel to prevent violence against of lesbian, gay, bisexual, transgender and intersex people (LGBTI) in prisons (35).

People who use drugs have the right to continued access to drug treatment and to needles and syringes and opioid substitution therapy (31). The intentional withholding of drug treatment may amount to a form of torture or ill-treatment (36).

Where transgender prisoners are accommodated according to their birth gender, especially transwomen, this paves the way to sexual abuse and rape (37). **Prisoners who are LGBTI should have their own concerns taken into account when making decisions on placement (38, 39).**

Compulsory treatment, rehabilitation and detention centres for drug use or sex work have been found to breach international human rights obligations, including the right to be free from torture and cruel, inhuman and degrading treatment. **United Nations (UN) human rights bodies and experts and 12 UN agencies have called for their immediate closure** (40–45).

Community-based organizations, and especially community-led organizations, must be involved in developing and implementing effective HIV responses from pre-detention to after release, including involving representatives from different prison population subgroups.

In cases of humanitarian crises and health emergencies, such as COVID-19, people who remain incarcerated should have access to all necessary prevention, diagnostic and treatment services, including the ability to self-isolate (7). Emergency situations must not be used as a justification for undermining adherence to all fundamental safeguards (6).

KEY RESOURCES FOR FURTHER INFORMATION

- UN General Assembly, [United Nations Standard Minimum Rules for the Treatment of Prisoners](#) (“the Nelson Mandela Rules”), 2016
- UNODC, United Nations [Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders](#) (the Bangkok Rules), 2011
- UN General Assembly, United Nations [Standard Minimum Rules for Non-Custodial Measures](#) (The Tokyo Rules), 1990
- UNAIDS and Office of the United Nations High Commissioner for Human Rights (OHCHR), [International Guidelines on HIV/AIDS and Human Rights](#), 2006 Consolidated Version, 2006
- UNAIDS, [Fast Track and Human Rights: Advancing Human Rights in Efforts to Accelerate the Response to HIV, 2017](#).
- UNODC, Technical Brief Update – [HIV Prevention, Testing, Treatment, Care and Support in Prisons and Other Closed Settings: A Comprehensive Package of Interventions, 2020](#)
- The Global Fund, [Technical Brief: Addressing HIV and TB in Prisons, Pre-Trial Detention and Other Closed Settings, 2020](#)
- ILO, OHCHR, UNDP, UNESCO, UNFPA, UNHCR, et al., [Joint UN statement calls for the closure of compulsory drug detention and rehabilitation centers, 2012](#)
- UNODC, [COVID-19 Preparedness and Responses in Prisons: Position Paper, 2020](#)

This policy brief is produced by UNAIDS as a reference on prisons, HIV and Human Rights. It does not include all recommendations and policies relevant to the issues covered. Please refer to the key resources listed above for further information.

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