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# Pre-trial detention and health

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SALC - Prison health and human rights

# Introduction

- Prison health is highly dependent on prison conditions and this refers to at least:
  - the physical characteristics of the prison building, including sleeping, eating, working, training, visiting and recreation space;
  - the provision of beds, bedding and other furnishings;
  - the nature and conditions of the ablution facilities;
  - the cleanliness of the living space and maintenance of buildings and infrastructure
  - the level of occupation of the facility, individual cells and common areas with reference to two and three dimensional space measurements and ventilation .
- Health: Promotive, preventive, curative and rehabilitative
- Pre-trial detention – detention prior to the completion of a trial and is usually in a prison but can also be in police cells; latter is highly undesirable.
- Pre-trial detention is supposed to be short but can run into months and years, especially when facing capital offence charges and the law makes provision for non-bailable offences.

# Numbers and facts

- Overcrowding is a pervasive problem in Africa and affects every operational aspect of a prison, but particularly conditions of detention and thus prisoners' state of health and access to health services.
- 1.2 million prisoners in Africa of which 340 000 are PTD
- Occupancy range from 388 % (Comoros) - 60 % (Niger).
- % PTD range from 6% (Algeria) to 90% (Libya)
- 73 % of African prisoners are held in prisons that are at higher than 100 % of capacity and 32 % in prisons that are at 150 % or more capacity.
- In short, prison overcrowding is a near-universal phenomenon on the continent, affecting the overwhelming majority of prisoners.
- It is frequently the case that sentenced and unsentenced prisoners not separated; males and females; children and adults.

# Legal provisions

- UNSMR: Rule 24 (1) The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.
  - UNSMR Rules 111-120 deal with ‘untried prisoners’ and sets the applicable standards
- ICESCR: Article 12 1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

# Legal provisions

- ACHPR: 16(1)Every individual shall have the right to enjoy the best attainable state of physical and mental health. (2) State Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

# Health impact of PTD

- **Kenya**
- Some 41% of female detainees said they were ill at the time of their arrest & 13% of female detainees said they were HIV positive at the time of their arrest.
- Other illnesses (female): stomach ulcers (10%), chest infections and chest problems (6%), dizziness (3%), tonsils (3%), asthma (3%), ear infection (3%), allergies (3%).
- Some 75% of female detainees were either ill at arrest or became ill in prison or both. Of those who were ill at arrest, 69% had additional illnesses while in prison.
- Some 21% of male detainees said they were ill at the time of their arrest. Illnesses mentioned were chest complaints (6%), cold and coughs (2%), ulcers (2%), epilepsy (2%), allergies (1%) asthma (1%) cancer (1%) diabetes (1%), broken arm (1%), bruises and cuts (1%), HIV positive (1%), and malaria (1%).
- Some 77% of male detainees said they subsequently fell ill while in prison.
- Roughly a third received effective medical treatment.

# The issues

- **Available cell capacity and occupation:** There is no internationally accepted norm but should be no less than 3.5m<sup>2</sup> per prisoner in communal cell.
- **Amount time per day outside of cells per day:** Should be as much as possible but no less than 1 hour per day.
- **General cleanliness, hygiene and vectors for disease:** Outside areas should be clean, dry and free of rubbish. Risks - stagnant water, vectors such as cockroaches, rodents, flies, fleas and lice. What efforts to control vectors and how frequently? E.g. Mosquito nets and fumigation.
- **Quality of infrastructure and building:** Problems noted such as that buildings are in poor condition, dirty, dilapidated, cracked walls, leaking roofs, and poor ventilation.
- **Lighting and ventilation:** Natural and artificial lighting. Overcrowding and small windows make ventilation poor; risk of TB
- **Supervision of prisoners:** How easily can prisoners raise alarm?
- **Access to ablution facilities and drinking water:** Toilet to prisoners should be 1:20 max. Continuous tapped water and not in containers stored in cell. Soap!

# The issues

- **Screening and access to services:** Of particular importance in any prison environment, and even more so when facilities are overcrowded, is the medical screening of new admissions UPON ADMISSION. The aim is, firstly, to ensure that medical conditions receive prompt treatment, and secondly, that communicable diseases are detected and prevented from spreading into the general prison population. TB, diarrhoea, scabies, malaria and HIV&AIDS are most common problems.
- **Medical staff:** Is there sufficient staff? Sub-Saharan Africa 1.2/1000 and RSA 4.7/1000
- **Medical supplies:** Are essential medicines available and how long does it take to get medication per script? Are chronic medicines available?
- **Inspections:** Do health care personnel conduct regular inspections? What happens with reports
- **Deaths and causes of death:** Are there proper investigations into deaths even if by apparent natural causes?
- **HIV and TB:** Continuity of treatment esp. PTD. Conditions of detention. Diet. Prevention – education, testing and condom distribution.
- **Disabled prisoners:** Are measures in place to deal with mental and physical disabilities. PTDs sent for observation in psych hospital often wait for bed space in prison.

# Conclusion

- Imprisonment even when under relatively good conditions have a physical and mental health impact.
- PTD conditions are usually worse than for sentenced prisoners
- Impact is aggravated by overcrowding and poor conditions of detention, especially when promotive and preventive care is not implemented.
- PTDs are a highly mobile group and thus present significant risks to prison and public health. MDRX-TB and other contagious diseases.