Joint Submission to the OHCHR analytical study on key challenges in ensuring access to medicines, vaccines, and other health products.

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Submitting organisations

Harm Reduction International (HRI) is a leading non-governmental organisation that envisions a world in which drug policies uphold dignity, health and rights. We use data and advocacy to promote harm reduction and drug policy reforms. We show how rights-based, evidence-informed responses to drugs contribute to healthier, safer societies, and why investing in harm reduction makes sense.

HRI is an NGO in Special Consultative Status with the Economic and Social Council of United Nation.

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.

PRI holds ECOSOC Special Consultative Status since 1993. Registered in The Netherlands (registration no 40025979), PRI operates globally with offices in multiple locations.

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Introduction

Harm Reduction International (HRI) and Penal Reform International (PRI) welcome the opportunity to provide inputs ahead of the OHCHR analytical study on key challenges in ensuring access to medicines, vaccines and other health products, pursuant to resolution 53/13.

Addressing the barriers faced by persons or groups in situations of vulnerability or marginalization in accessing medicines, vaccines and other health products, this submission will focus on access to essential medicines and harm reduction for people deprived of liberty and the main challenges they experienced during the COVID-19 pandemic. Particularly, this work draws on HRI's and PRI's research on this topic and previous submissions, including the 2023 latest joint submissions to the Special Rapporteur on the Right to Health on drug policy and harm reduction in prison. The submission also expands on the 2023 joint submission to the OHCHR pursuant to resolution 52/24 and the joint submission to the OHCHR on human rights implications of and good practices and key challenges of equitable and universal access to and distribution of COVID-19 vaccines.

Unless stated otherwise, all information provided in this submission refers to HRI's Global State of Harm Reduction 2022 and its 2023 updated briefing.

Challenges faced by people deprived of liberty in the access to harm reduction and other essential medicines during the COVID-19 Pandemic.

Penal Reform International (PRI) has reported that the number of people deprived of liberty has reached a record number, with over 11.5 million people incarcerated globally and around a third of the global prison population in pretrial detention, to be presumed innocent. An estimated 2.2 million people worldwide are detained for drug offences, 22% (470,000 people) of them for drug possession for personal use[1]. Reportedly, between 20% and 50% of the global prison population has used drugs while incarcerated.[2]

Despite States obligations to protect the right to health of people who use drugs deprived of liberty (clearly recognised by OHCHR, WHO, UNAIDS, and UNODC, among others),[3] and in disregard of the severe health risks that closed settings entail for people who use drugs, the Global State of Harm Reduction 2022 (GSHR) and its updated report, reveal that people in prisons are still severely underserved by harm reduction services, showing little expansion since 2020. Only 59 countries globally – with no expansion from 2020 – provide Opioid Agonist Therapy (OAT) in at least one prison. While OAT programmes are now operating in prisons in Kosovo, Macau, and Tanzania, this is balanced by new data indicating that prisons in Georgia, Hungary and Jordan only offer opioid agonists for detoxification purposes. The scenario is even worse when it comes to the provision of Needle and Syringe Programmes (NSPs), with only 10 countries in the world operating NSPs in at least one prison.[4] There are no NSPs, OAT or naloxone programmes in prisons in Latin America and West Central Africa. Canada has the only world's prison-based drug consumption room (DCR).

Incarceration thus represents a significant barrier to accessing essential harm reduction services. This emerged even more clearly during the COVID-19 pandemic, illustrating how pandemics and other health emergencies can disproportionately impact access to health for people deprived of liberty. Despite limited data on COVID-19 prevalence among people who use drugs, evidence indicates that this population, particularly people who inject or smoke, face more significant risks of infection and elevated risk of adverse outcomes if contracting the virus compared to the general population, associated - among others - with pulmonary and respiratory complications, and compromised immune

[1] For more information, see Penal Reform International and Thailand Institute of Justice, (2023) Global Prison Trend 2023. Doi https://www.penalreform.org/global-prison-trends-2023/

[2] Carpentier. C, Royuela. L, Montari.L and Davis. PH. 2018. The Global Epidemiology of Drug Use in Prisons in *Drug Use in Prisoners. Epidemiology, Implications and Policy Responses.* Edited by Stuart A, Kinner A and Rich J. Oxford University Press. P 18. Doi *https://books.google.co.uk/books?hl=en&lr=&id=yAJCDwAAQBAJ&oi=fnd&pg=PA17&dq=prevalence+of+illicit+drug+use+in+prisons&ots=t6Kx8ZbZJn&sig=jrgM8wLIobdLFvK1XleiAtFNtJs#v=onepage&q&f=false;* Dolan K, et al. 2015 'People who inject drugs in prison: HIV prevalence, transmission and prevention' International Journal of Drug Policy vol 26:S12-S15.

[3] For more details on human rights standards on harm reduction in prison, see the joint submission by Harm to the OHCHR available here https://hri.global/publications/joint-submission-to-the-sr-on-health-harm-reduction-and-prisons/

[4] While the GSHR 2022 had registered Armenia as one of the countries that provide NSPs in prison, new updated information confirms that the country has suspended the NSP programme in prison. In contrast, Ukraine began implementing NSPs in prisons, while France resumed its prison NSPs programme.

system as a consequence of the prolonged drug consumption.[5] Additionally, people who inject drugs can have underlying medical conditions that increase the risk of COVID-19 and other infectious diseases, such as HIV, viral hepatitis, and tuberculosis.[6]

This health risk are often compounded when the person faces incarceration. Prisons are high-risk environments for the transmission of diseases due to overcrowding, limited access to clean water and inadequate sanitary conditions, lack of healthcare and access to good-quality food, and mistreatment of people in detention, to name a few.[7] Additionally, the over-representation of vulnerable groups, such as people who use drugs, means many people in prison are at higher risk of becoming seriously ill if contracting a disease.[8] Evidence shows that sharing injecting equipment – a common practice in prison – has been linked to outbreaks of HIV in prisons in Iran, Lithuania, Thailand, the United Kingdom, and Ukraine.[9] Globally, the prison population is 7.2 times more likely to be living with HIV than those in the broader community, with 3.2% of prisoners living with HIV and 15.1% living with hepatitis C.[10] People in prison are also disproportionately vulnerable to overdose, both during their sentence and immediately after their release. Male and female prisoners are 19 and 69 times, respectively, more likely to die from an overdose than the non-prison population.[11]

Prison conditions and health risks have been compounded by the COVID-19 pandemic, which has exacerbated the structural problems of the prison system and often worsened inhumane living conditions and access to essential health services, including access to COVID-19 vaccines. Research by HRI and PRI published in December 2021 revealed a widespread lack of transparency and information regarding vaccination rates of people living in prison and prison staff globally, which made it difficult to monitor the access to COVID-19 vaccination and constitutes, in itself, a violation of the right to health.[12] Specifically, failure to provide transparent and desegregated data impeded accurate

[5] Dunlop, A., Lokuge, B., Masters, D. *et al.* "Challenges in maintaining treatment services for people who use drugs during the COVID-19 pandemic". *Harm Reduct J* (2020) 17-26. https://doi.org/10.1186/s12954-020-00370-7;

[6] WHO and UNODC data estimate that people who inject drugs are at increased risk of HIV, tuberculosis (TB), and viral hepatitis B and C (HBV and HCV), in addition to overdose. Of those who inject drugs 1.6 million is living with HIV, accounting for approximately 10% of new HIV infections globally. Unsafe drug injection continues to be a key contributing factor to the global epidemic of hepatitis C, with WHO estimating between 23% and 39% of new hepatitis C infections are attributable to drug injection.

[7] For more detail on prison conditions, see Penal Reform International and Thailand Institute of Justice, 2023. Global Prison Trend 2022. DOI https://www.penalreform.org/global-prison-trends-2022/

[8] Dolan, K., Wirtz, A.L., Moazen, B., et al. 2016, Global burden of HIV, viral hepatitis, and tuberculosis in prisoners and detainees, in The Lancet Series: HIV and related infections in prisoners; European Centre for Disease Prevention and Control and the European Monitoring Centre for Drugs and Drug Addiction. 2017. Systematic review on active case finding of communicable diseases in prison settings. Stockholm: ECDC. Doi 10.2900/348536; Penal Reform International (2007). Health in Prisons: realizing the right to health. Penal Reform Briefing No 2. DOI https://cdn.penalreform.org/wpcontent/uploads/2013/06/rf-02-2007-health-in-prisons-en_01.pdf

[9] Dolan K, et al (2015) 'People who inject drugs in prison: HIV prevalence, transmission and prevention' (2015) International Journal of Drug Policy vol 26:S12-S15

[10] Dolan K, Wirtz AL, Moazen B, Ndeffo-mbah M, Galvani A, Kinner SA, et al. (2016) Global burden of HIV, viral hepatitis, and tuberculosis in prisoners and detainees. The Lancet 388(10049) 1089–102; UNAIDS (2021) HIV and people in prisons and other closed settings. Human Rights Fact Sheet Series DOI https://www.unaids.org/sites/default/files/media_asset/06-hiv-human-rights-factsheet-prisons_en.pdf

[11] Binswanger IA, Nowels C, Corsi KF, Glanz J, Long J, Booth RE, et al. (2012) Return to drug use and overdose after release from prison: a qualitative study of risk and protective factors. Addict Sci Clin Pract 7(1):3.

[12] While only Argentina, Canada, Chile, Colombia, Italy, and Thailand, publish official and updated statistics on people in detention or staff who have received at least one dose, fewer countries provide desegregated data in that regard. Some countries, such as Australia, acknowledge data is not systematically recorded. As of September 2021, information on vaccination plans was found in only 46 countries and for 47 countries was unclear whether vaccination of imprisoned population had started, whereas, in 78 countries, there was no information about the vaccination rate of prison staff. HRI research also highlights that information is particularly scant for African countries.

assessments of governments' responses to the pandemic by the international community, health services, monitoring bodies, and civil society, thus, also hindering accountability.[13]

Despite evidence of its effectiveness and guidance from international authorities[14], the inclusion of people detained and working in prison as an at-risk/ priority group in national vaccination plans has been contentious, leading to piecemeal and often insufficient implementation.[15] Countries adopted vastly different approaches to these populations: while some countries explicitly prioritised people in prison and/or prison staff, others included prisoners in their plans but not within a priority group; another group followed the same categories for people in prison as those in the broader community, and a fourth group did not make any reference to prisons at all in national vaccinations programmes. In addition to the lack of uniformity in the vaccination programmes and their rollouts,[16] independent reports raise concerns about prioritisation and/or exclusion of prisoners from vaccination based on political motives in a number of countries.[17] Vaccine hesitancy appeared to be higher in prisons than in the general population in countries such as Finland, Greece, Jamaica, and Trinidad and Tobago, among others; raising concerns regarding the availability, accessibility, and quality of targeted, evidence-based information on COVID-19 vaccines received by people in prison and on the opportunities provided to make an informed and evidence-based decision regarding vaccination.[18]

Additionally, a 2023 HRI report concluded that measures implemented during the pandemic, such as extended lockdowns and suspensions of visits, seriously and unjustifiably impacted the already limited provision of health and harm reduction services, having far-reaching health and human rights implications for people in detention in the countries surveyed.[19] For example, lockdowns were reportedly implemented in prisons at the beginning of the pandemic and at various other times in all countries surveyed, with most people confined in their cells for sometimes 23 or 24 hours a day and with full suspension of regular activities, including work, school, leisure and physical activities. Suspension of visits was also reported in all countries studied, which prevented not only family and friends from coming into prisons, but external services as well, including harm reduction and other health service providers. In some cases, these extreme measures continued to be implemented in prisons far beyond when they were lifted in the community despite the lack of necessity and proportionality, with some health services permanently limited or suspended, raising questions as to their exceptional and temporary nature. That is the case in the UK, where people were found to be locked up in their cells for up to 23 hours a day in February 2022 after restrictions were lifted in the community. Similarly in Mexico, medicine shortage continued to be a problem after the acute phase of the pandemic, and the quality of services reportedly remained subpar. In at least four prisons in

[13] HRI and PRI (2021) COVID- vaccinations for prison population and staff: Report on global scan. p 14-17. Doi https://hri.global/publications/covid-19-vaccinations-for-prison-populations-and-staff-report-on-global-scan/
[14] WHO Regional Office for Europe "Preparedness, prevention and control of COVID-19 in prisons and other places of detention" (2020), available at https://www.euro.who.int/__data/assets/pdf_file/0003/442416/COVID-19-prisons-visitors-eng.pdf.
[15] HRI and PRI (2021) COVID- vaccinations for prison population and staff: Report on global scan. p. 19. Doi https://hri.global/publications/covid-19-vaccinations-for-prison-populations-and-staff-report-on-global-scan/
[16] HRI's reseach suggest that countries prioritise people based on factors such as age and pre-existing conditions, whereas other countries followed geographical criterias. Other cases, such Egypt and Israel, was reported to have excluded prison from vaccionation based on political motives.
[17] HRI and PRI (2021) COVID- vaccinations for prison population and staff: Report on global scan. p.23 Doi https://hri.global/publications/covid-19-vaccinations-for-prison-populations-and-staff-report-on-global-scan/
[18] HRI and PRI (2021) COVID- vaccinations for prison population and staff: Report on global scan. p.30 Doi https://hri.global/publications/covid-19-vaccinations-for-prison-populations-and-staff-report-on-global-scan/
[19] Benin, Burkina Faso, Canada, France, Ghana, Indonesia, Italy, Mexico, Kenya, Kyrgyzstan, Mauritius, Moldova, Nepal, Switzerland, and the United Kingdom.

Mexico, the number of visits has been permanently reduced, limiting the access to health and sanitary products that people in detention can only have access to through their families.[20]

Conclusion and recommendations

International human rights obligations bind States to provide harm reduction services and essential medicines to all people, including people deprived of liberty, to prevent and confront the spread of infectious diseases and to ensure the provision of essential services for drug dependence, including methadone and buprenorphine. For the same reason, States should guarantee underlying determinants of health such as fresh air, clean water and adequate sanitation, non-discrimination, and active and informed participation of people deprived of liberty in decisions affecting their health.

In line with such obligations, and following the information provided through this submission we encourage the OHCHR to recommend Member States to:

1. Eliminate all legal and policy barriers and stigmatising and discriminatory practices that limit the access to essential medicines and treatment for people deprived of liberty.
2. Guarantee equitable access to harm reduction and essential medicines for all people deprived of liberty;
3. Incorporate people deprived of liberty as a priority/high risk group in all pandemic and health emergency responses' strategies at both national and international level, including in the design, planning and roll-out of vaccination programmes;
4. Maintain disaggregated data about distribution of harm reduction and essential medicines in prisons;
5. In case of future pandemics a, disaggregated data about vaccination rates and other health responses should include people who use drugs, people in detention and prison staff.

[20] For more information, see Sander and Jofré.2022. Prisons After Covid-19: Beyond Emergency Measures. *Harm Reduction International.* Doi https://hri.global/publications/prison-after-covid-19-beyond-emergency-measures/