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Advance Psychiatry and Mental Health Across the World

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WPA Position Statement on Prison Public Health

27th anniversary of the release of Nelson Mandela from Victor Verster Prison, South Africa, on 11th February 1990. He had been held in custody for 27 years.

"Only free men can negotiate. A prisoner cannot enter into contracts." Nelson Mandela

Position statement

- The World Psychiatric Association (WPA) expects that all Governments are clear about the purpose of their prisons to ensure that all imprisonment is reasonable, proportionate, decent and humane. Health should not deteriorate or be exacerbated as a consequence of the custodial environment or its regime;
- The WPA supports mental health professionals in their work in prisons - this applies particularly in the event of any untoward or inappropriate discrimination, or any prevention of the ability to practise ethically based medicine, or of the need to speak out about any significant shortcomings;
- The WPA expects that people in prison who are socially, physically and mentally disadvantaged should have access to rehabilitation services, enabling them to lead purposeful and economically viable lives free from further criminal activity on release;
- The WPA advocates that people in prison throughout the world should, at all times, have timely access to the same range, amount and standard of mental health care services that are available to people in the general community;

- The WPA regards the accurate assessment and treatment of ill-health amongst people in prison as obligatory, as is the promotion of health and wellbeing;
- The WPA recognizes the high levels of mental health, physical health and substance misuse morbidity with which people in prison present. Given these high morbidity levels, reception health screening should be universally provided, and effective mental health assessment and treatment readily available;
- The WPA understands that health and justice roles have the potential to conflict, and healthcare provision and practitioners should ideally function independently of the criminal justice system and be supported through the country's healthcare system;
- The WPA holds the clear view that health care providers should never be involved in punishment, inhuman or degrading treatment, or torture;
- The WPA expects the Bill of Rights for Persons with Mental Illness[1], and the Bill of Rights for Children and Young People with Mental Illness[2], to apply equally to people in prison, in the same way as they apply to the general community;
- The WPA considers that to enable prison healthcare systems to function optimally, processes should be in place to ensure the independent monitoring of prison and health standards, with a robust complaints system. Vulnerable groups such as women, pregnant women, those with intellectual disability and LGBTQ individuals' needs must be recognized and met.

Key Human Rights

On 10th December 1948, in Paris, the Universal Declaration of Human Rights (UDHR) was proclaimed by the United Nations General Assembly[3]. This milestone document set out fundamental human rights to be universally protected and was the foundation of international human rights law.

In 1955, the UN Congress on the Prevention of Crime and the Treatment of Offenders adopted the UN Standard Minimum Rules for the Treatment of Prisoners. In 2015, a revised version was approved by the UN General Assembly, to be known as the 'Nelson Mandela Rules'[4] in honour of the late Nelson Rolihlahla Mandela, who spent 27 years in prison.

The Prison Population

Across the world, between 10 and 11 million people are thought to be held in prisons[5], although this figure is an estimate given that numbers are unavailable or incomplete for some countries. This

represents a global prison population rate of 144 per 100,000 persons, although there are high levels of population variation. The world's prison population has increased by 20% since 2000, with the largest increases having occurred in Oceania (59%), the Americas (41%) and Asia (30%). The growth in Africa has been smaller (15%), and there has been a decrease in Europe (-21%).

Many jurisdictions have a high percentage of their prison population under trial, and particular consideration needs to be given to this group because their status is associated with additional vulnerability. In some countries, the low conviction rates for this population give rise for concern, as does the prevalence of imprisonment without trial and the widespread use, in some jurisdictions, of remand/under trial incarceration as extra-judicial punishment. This group can suffer additional stress through uncertainty, and insufficient attention is given internationally to drive this population down.

The Purpose of Prison

- Governments should be clear about their purpose for prisons and ensure that imprisonment is reasonable, proportionate, decent and humane;
- People who are being held in custody before their trial should only be held because the alleged offence is so serious that the public need protection during the pre-trial period, or if there is a reasonable fear that they would escape, avoiding trial;
- Imprisonment should serve only four possible purposes: punishment, deterrence, rehabilitation, and the protection of the public.

A State's Overriding Standards for the Imprisonment of People

- People in prison should have universal access to appropriate independent legal representation;
- The loss of their liberty should be the only punishment;
- People in prison should be confined in a safe and secure environment;
- Timely and appropriate medical intervention should be available and accessible;
- Rehabilitation should be given to ensure the development of skills to enable successful re-entry to the community;
- Attempts should be made to minimize the number of people sent to prisons (e.g. by using community sentences wherever possible, or by ensuring the early diversion of those with mental illnesses from custody into more appropriate health service facilities);
- Children should not be imprisoned.

Prison Conditions

All UN Member States are encouraged to improve conditions in prisons. This is consistent with the Nelson Mandela Rules[4] and all other relevant and applicable United Nations standards in crime prevention and criminal justice.

To apply the Nelson Mandela Rules most effectively, international exchange of good practices and experiences in dealing with challenges is recommended. The Nelson Mandela Rules cover the following key areas:

- All prisoners shall be treated with the respect due to their inherent dignity and value as human beings irrespective of religion, sexual orientation, age or gender ;
- Prisoners shall not be subjected to, and shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment;
- The safety and security of prisoners, service providers, staff and visitors should be protected at all times;
- Guidelines on accommodation, access to fresh air, exercise and sport, adequate nutrition, personal hygiene, clothing and bedding, sanitation, access to books, the practice of the individual's religion, education and recreation;
- The management of all types of prisoners, including persons arrested or detained without charge, civil prisoners, prisoners under arrest or awaiting trial, and prisoners under sentence.

Core Principles of Prison Health Care

- People in prison have the same rights to access appropriate health care as those in the community;
- States are responsible for ensuring that prisoners receive proper and appropriate clinical care and that general prison conditions promote their well-being, and the welfare of staff;
- Healthcare staff should deal with prisoners primarily as patients;
- Healthcare staff should have the same professional independence as their colleagues who work in the community;

- Prison health policies should be an integral part of national health policy, and the administration of public health should be closely linked to the health services administered in prisons. National suicide and violence prevention strategies should consider prison health.

Prisoners' Health Care Rights

- Timely medical intervention should be provided when people in prison are ill, or otherwise in need of clinical attention;
- Access to preventative treatment should be provided, particularly for communicable diseases, suicide prevention and the management of people in segregation;
- Care should be made available to an optimum professional standard;
- Informed consent is essential for all clinical interventions, and prisoners have the right to refuse treatment;
- Adequate hygiene and food should be offered as standard.

Health Care Provision

The Nelson Mandela Prison Rules describe the following fundamental standards for all health care professionals working in prisons:

- Healthcare provision should equate with that in the community, accessed free of charge;
- Clinical decisions should only be made by health-care professionals, and they should not be over-ruled or ignored by non-medical prison staff;
- There must be prompt access to medical attention where there is urgent need;
- The relationship between clinician and patient should be governed by the same ethical and professional standards as in the community, especially regarding the confidentiality of medical information;
- There is an absolute prohibition on all healthcare professionals to engage in acts that may constitute torture or other cruel, inhuman or degrading treatment or punishment;
- Healthcare professionals who become aware of any signs of torture or other cruel, inhuman or degrading treatment or punishment should document and report such cases;
- Healthcare personnel do not have any role in imposing disciplinary sanctions and must visit prisoners daily when they are held in seclusion to effectively monitor mental and physical health

status, to provide prompt medical assistance and treatment. Any adverse physical or mental effects arising from disciplinary sanctions should be reported, with advice provided regarding necessary termination or alteration of conditions of detention as required.

Health Care Professionals Delivering Clinical Services to Prisoners

- Healthcare providers should be independent of the Justice System - ideally employed by the national health care provider, or a private healthcare provider that is accountable to the national provider.
- Healthcare professionals should practise in line with the good practice framework of their registered professional body.
- Prison healthcare professionals should be competent in all aspects of work, including management, research, and teaching. Their professional knowledge and skills should be kept up to date, and they should work within the limits of their competence.
- Prison healthcare professionals should be aware of the continuing need for a robust evidence base for rehabilitative programmes and healthcare interventions. When it is appropriate or necessary, they should participate in and promote ethically approved research.

Medical Confidentiality

Information obtained from patients is considered confidential[6], unless disclosure is justified in the public interest (e.g. when there is a risk of serious harm to the patient, or to others).

However, some information sharing between practitioners and prison staff may be essential to safeguard and promote the welfare of people in prison, such as awareness of medical conditions requiring potential emergency intervention or at risk of exacerbation or deterioration by the prison environment (e.g. epilepsy, diabetes, mental illness, suicide risk, and the management of drug and alcohol addiction).

Governments should ensure that good practice guidelines exist for the sharing of confidential medical information on a "need to know" basis[7,8] between clinical staff and prison staff, and regular training on information sharing and medical confidentiality should be provided.

Mental health, substance misuse and vulnerability

Mental disorders have a higher prevalence amongst prisoners than amongst people in the community[9]. Mental health and substance misuse services should be accessible and provided to the same degree and standard as in the general community. Systems should be in place for the early identification of mental and physical health conditions and they should facilitate swift onward referral for specialist assessment, diagnosis, treatment and advice when this is needed. Timely access to more intensive in-patient care should also be available when it is required. Prison-specific guidelines that identify thresholds for mentally ill persons requiring transfer to hospital-based treatment should be developed. Harm reduction strategies must be available for everyone who needs these. There should be provision of alcohol and drug acute detoxification on arrival for all prisoners, and consideration should be given to making opiate substitution treatments available.

Suicide and self-harm

Similarly, multidisciplinary systems and procedures should be in place for the early identification and management of vulnerability to self-harm or suicide. A custodial multidisciplinary coordinated system should be in place for the safe and effective management and observation of people who have been identified as presenting with any such risks. Systems should be put in place to investigate completed suicides. Groups such as LGBTQ or those with intellectual disability who are more vulnerable must have their needs met. Women especially those who are pregnant or may have young children outside the prison need support.

Punishment and solitary confinement

Health care workers are prohibited from involvement in torture or other cruel, inhuman or degrading treatment or punishment. This includes the administration of lethal injections as part of a death sentence.

Whenever clinicians consider that the physical or mental health of a prisoner has been, or will be, injuriously affected by continuous imprisonment, or by any condition of imprisonment, this should be reported to the appropriate authority. It should also be reported to others as appropriate if attention is not paid to their concerns.

Solitary confinement can have a severe and sustained adverse effect on health[10]. Governments should, therefore, ensure that guidelines are in place so that health professionals access prisoners

before they are secluded, and regularly after that. Particular attention should be paid to any pre-existing vulnerabilities, such as acute mental or physical illness, physical disability, neurodevelopmental disorders, or the ongoing management of drug or alcohol disorders, and to any exacerbation or deterioration in mental or physical health. Procedures should be implemented to ensure that the use of solitary confinement is kept to an absolute minimum.

Food refusal

Food and or fluid refusal can be an established form of protest or planned suicide. A person with mental capacity has the legal right to refuse food and fluid[11,12] and countries should ensure that they have robust protocols in place for the management of such situations. This must include a mental health assessment and a review of mental capacity.

Independent Complaints and Monitoring Systems

National independent custodial monitoring systems must be in place, and these inspecting bodies should be free from government interference and able to identify good practice and poor performance, helping to raise standards.

Prisoners must have access to independent agencies which oversee prison conditions and services. An effective complaints system should be in place and able to respond to individual concerns regarding unmet needs, or lack of access to health care, or justice, in a timely manner.

The prevention of torture

All prisons systems must facilitate visits by either the UN Committee against Torture[13] or the European Committee on the Prevention of Torture[14] when they are required to do so. Torture represents a serious violation of human rights, in keeping with the principles of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment[15]. WPA Bill of Rights for people with mental illness offers ways forward.

Visits by independent monitors, with unlimited access, should be able to review how persons deprived of their liberty are treated, and nation States should engage with subsequent reports and make improvements upon request.

Effective rehabilitation

Without access to effective rehabilitation, the containment of people who are socially, physically, intellectually and mentally disadvantaged can be damaging. It serves no economic or humanitarian purpose, and it may foster further criminal activity on eventual release from prison.

Poor education, illiteracy, lack of numeracy, low self-esteem, physical and mental ill-health equip can poorly equip people for work, with consequent lack of economic power to provide for themselves and their families. Untreated significant mental illness can lead to repeat criminality (or recidivism) and additionally may place the individual or the public at risk especially in those with intellectual disability.

Improving vocational skills should be part of any general rehabilitation programme, alongside educational opportunities (particularly those addressing basic literacy and numeracy).

Minimum standards for meaningful daytime activity (education, courses and training) should be developed that include the amount and range of these activities.

As part of the process of rehabilitation and the interaction with community services, it is vital that personal clinical information follows the prisoner into and out of custody effectively. Many existing systems do this poorly; however, the efficient transfer of information is essential for onward well-being, prevents the duplication of assessment and treatment, and is likely to be more cost-effective overall. Where possible, arrangements for the continuity of health and social care should be arranged prior to an individual leaving custody.

The evidence base for offending behaviour modification is very limited, and it is important that significant financial commitment and academic investment is prioritised internationally.

Additional consideration

Female offenders require special attention according to their vulnerability. They must be protected from sexual assaults.

Prisoners often spend long periods in court facilities when they are not engaged in legal processes. Brief court appearances (e.g. to enter a plea) can involve hours spent in transport, or in court cells, but only minutes appearing in court. Few jurisdictions make full use of this period to screen, assess

and treat detainees. Although court facilities in many countries require substantial improvement, the missed opportunity to undertake health screening early in the judicial process denies necessary timely clinical intervention to assess and treat physical and mental ill-health. This is an area for future international action.

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