

Compassionate release in the spotlight: Human rights-based response to COVID-19 in prisons



Addendum to [Policy Brief on Compassionate Release](#)

Introduction

The current SARS-CoV-2 pandemic poses particular risks for the most vulnerable and marginalized members of society, including incarcerated populations. Prisons are overcrowded spaces where inmates share sleeping, eating and hygiene facilities. Sanitary conditions are often sub-standard and ventilation poor. These structural deficits facilitate rapid spread of contagion. [As one US prison inmate put it](#); 'If one person gets sick, it's like a death sentence here.' The situation is exacerbated by the fact that incarcerated populations suffer from a higher prevalence of chronic disease, in part because many come from economically deprived communities characterized by health indicators, histories of substance use disorder and chronic stress, including from incarceration. These factors render inmates more vulnerable to COVID-19 disease. The rapidly growing population of elderly inmates further elevates the mortality risk factor for entire incarcerated populations.

Prison health is public health

Prison walls and barbed wire cannot contain the virus. Even the highest security prisons are conduits to the wider community, through the daily movements of staff, contractors and visitors, any of whom might carry and spread the virus. Since high occupancy rates render social distancing impossible and prison health care services clearly

do not have the capacity to handle such a crisis, some municipalities and national governments are choosing to release carefully selected offenders before their terms are officially up.

Human rights perspective

Incarceration does not deprive persons of the rights enjoyed by non-incarcerated populations. A human rights-based response to COVID-19 in prison must protect, respect, and fulfill the rights of inmates, guards, staff, and all associated family members to life, health and freedom from cruel and inhumane treatment. Prisoners also have the right to palliative care,¹ which will be essential when intensive care is unavailable or inappropriate. Measures to curb the spread of the virus in prisons must not infringe on the rights of prisoners, outlined in the [United Nations Standard Minimum Rules for the Treatment of Prisoners \(the Nelson Mandela Rules\)](#).

Compassionate Release

To protect and fulfil these rights, governments should activate compassionate release policies, especially for prisoners who are elderly, terminally ill, or who have severe physical or cognitive impairments. Well-functioning compassionate release policies ensure prisoners' right to access to health care (such as critical and palliative care) that is unavailable inside the prison. A Policy Brief on compassionate release is available [here](#).

Recommendations:

- Integrate a human rights-based approach to incarcerated populations into all national measures to curb the spread of the SARS-CoV-2 pandemic;
- Review existing compassionate release policies to determine if they are fit for purpose. If they are not, develop standard eligibility criteria and expeditious procedures, in cooperation with judicial and law enforcement authorities, to protect the health of prison populations.

Further information and recommendations:

[Interim Guidance: Preparedness, prevention and control of COVID-19 in prisons and other places of detention](#) – WHO
[COVID-19 prevention and control among people living in prison](#) – UN Office on Drugs and Crime
[COVID-19 prevention and control among people working in prison](#) – UN Office on Drugs and Crime
[Position paper: COVID-19 preparedness and responses in prisons](#) – UN Office on Drugs and Crime

For further information please contact Dr. Katherine Irene Pettus, PhD, Advocacy Officer International Association for Hospice and Palliative Care, kpettus@iahpc.com, and Edith Riegler, MSc, e.riegler@umail.leidenuniv.nl

¹ [General Comment 14](#) (para.34) to the International Covenant on Economic, Social and Cultural Rights.