



UNAIDS PROGRAMME COORDINATING BOARD

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Agenda item 6

HIV in prisons and other closed settings

Additional documents for this item: *none*

Action required at this meeting - the Programme Coordinating Board is invited to:
(see decisions in below paragraphs)

59. *Take note* of the report;

60. *Request* the Joint Programme to support Member States and civil society in accelerating efforts to increase access to HIV prevention, treatment and care services for people in prisons and other closed settings, including for people living with HIV and other key populations, in line with the UNAIDS Strategy 2016-2021: On the Fast-Track to end AIDS, and report on concrete actions taken at a future meeting of the Programme Coordinating Board;

61. *Encourage* the Joint Programme and relevant partners to address issues related to HIV and health in prisons and other closed settings by building upon the momentum and fully engaging in the 2016 Special Session of the UNGASS on the World Drug Problem and in the 2016 High Level Meeting on HIV.

Cost implications for decisions: *none*

ACRONYMS

AIDS	Acquired Immunodeficiency Syndrome
ARASA	AIDS and Rights Alliance of Southern Africa
ART	Antiretroviral Therapy
EEA	European Economic Area
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
ESTHER	Ensemble pour une Solidarité Thérapeutique Hospitalière En Réseau
EU	European Union
HIV	Human Immunodeficiency Virus
HBV	Hepatitis B Virus
HCV	Hepatitis C Virus
ICPS	International Center for Prison Studies
ILO	International Labour Organization
LGBTI	Lesbian, Gay, Bisexual, Transgender, and Intersex
NSP-	Needle and Syringe Programme
OST	Opioid Substitution Therapy
PCB	Programme Coordinating Board
PLHIV	People Living with HIV
PWID	People Who Inject Drugs
SDG	Sustainable Development Goals
SOP	Standard Operating Procedures
STI	Sexually Transmitted Infections
TB	Tuberculosis
UBRAF	Unified Budget Results and Accountability Framework
UN	United Nations
UNAIDS	United Nations Joint Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime

EXECUTIVE SUMMARY

1. Expanding investment in efforts to reduce HIV transmission and increase coverage of HIV prevention, treatment and care services in prisons is necessary to end the AIDS epidemic in a way that leaves no one behind. Some countries have taken sound public health approaches grounded in evidence, human rights and gender equality consideration at heart. These encouraging examples provide a foundation on which to build during the fragile five-year Fast-Track period, when such evidence-informed and rights-based strategies need to be scaled up worldwide.
2. People in prisons and closed settings¹ are affected by higher prevalence HIV, viral hepatitis B (HBV) and C (HCV), and tuberculosis (TB) infections than the general population while being unable to enjoy access to quality health services, in violation of their right to the highest attainable standard of health. Because there is a constant interchange between prison populations and communities outside prison challenges, this also presents a challenge for public health, underscoring the need for concerted, intensified action under the Fast-Track strategy.
3. A broad range of factors contribute to people in prisons and closed settings being left behind in the HIV response, including (1) the overrepresentation of key populations and unsafe practices; (2) overcrowding, poor hygiene and nutrition; (3) violence, including sexual violence, experienced particularly by women and young people; (4) lack of access to basic health services and high prevalence of various communicable diseases; and (5) human rights violations, stigma and discrimination.
4. Addressing HIV in prisons is integrated into the core functions of UNODC, WHO and UNAIDS Secretariat, including through support to country partners, generating strategic information, standard setting, communications and global advocacy. The UNAIDS Strategy 2016-2021: On the Fast-Track to end AIDS provides new impetus for action, in line with the 2030 Agenda for Sustainable Development Goals.
5. Expanding the response to HIV in prisons in the coming years, and supporting efforts by governments and civil society in this area, are an urgent necessity. This background note details a number of challenges as well as lessons learnt through implementation of standards and programmes on HIV in prisons at the country level. It also finds that these efforts need to be intensified in light of the scale of the challenges and the fragile five-year window of opportunity to fast-track towards the end of AIDS as a public health threat in prisons, in line with the 2030 Agenda for Sustainable Development. To this end, the following recommendations have been formulated to guide and support action under the Fast-Track Strategy:
 - a. scale up quality and comprehensive HIV services in prisons and closed settings to reach all people in prisons and closed settings, with a particular focus on women, young people and others most vulnerable;
 - b. enhance coordinated actions by governments, communities and civil society, international funders, the UNAIDS Joint Programme and other relevant partners

¹ In this background paper, the term “prisons and other closed settings” refers to all places of detention within a country, and the terms “prisoners” and “detainees” to all those detained in those places, including adults and juveniles, during the investigation of a crime, while awaiting trial, after conviction, before sentencing and after sentencing.

within and across countries, to improve availability, accessibility, acceptability and quality of HIV services, and to close the strategic information gap;

- c. take joint actions to reduce overbroad criminalization of drug use, strengthen due process, and reduce imprisonment of key populations as part of broader alternatives to incarceration and criminal justice reform;
- d. align efforts to develop and implement prison reform initiatives addressing the underlying living and working conditions in prisons, hand in hand with the implementation of the comprehensive package of HIV prevention, treatment and care services in prisons; and
- e. strengthen accountability and improve the generation and availability of strategic information to guide actions, including through the use of the Global AIDS Progress Reporting, as a mechanism for countries to report on prisons-related data.

INTRODUCTION

- 6. Every year, 30 million people spend time in prisons or closed settings², with more than 10.2 million incarcerated at any given point in time³. Six countries incarcerate at least one in 200 of their citizens⁴. More than 2 million people in the United States of America are incarcerated in federal, state and local correctional facilities on any given day⁵, making the USA the country with the highest prison population. There are 1.64 million sentenced prisoners in China and 0.68 million in Russia⁶.
- 7. Virtually all prisoners will return to their communities, many within a few months to a year. Health in prisons and other closed settings is thus closely connected to the health of the wider society, especially as it relates to communicable diseases. Globally, prisons are characterized by relatively high prevalence of HIV, HBV, HCV and TB, as well as elevated risks for contracting such diseases and diminished access to health services.
- 8. Prison populations are predominantly composed of men aged 19–35 years⁷, a segment of the population that is at higher risk of HIV infection prior to entering prison. The prevalence of HIV, HBV, HCV and TB among prison populations tends to be two to 10 times higher than the prevalence in the general population⁸. In the USA,

² Kate Dolan et al., *People Who Inject Drugs in Prison: HIV Prevalence, Transmission and Prevention*, 26 INT'L J. OF DRUG POL'Y S12 (2015), available at

<http://www.sciencedirect.com/science/article/pii/S095539591400293X>.

³ INT'L CTR. FOR PRISON STUD., WORLD PRISON POPULATION LIST (2013), available at http://www.prisonstudies.org/sites/default/files/resources/downloads/wppl_10.pdf.

⁴ GLOBAL COMMISSION ON HIV AND THE LAW, *RISKS, RIGHTS & HEALTH* (July 2012), available at <http://www.hivlawcommission.org/resources/report/FinalReport-Risks.Rights&Health-EN.pdf>.

⁵ CTRS. FOR DISEASE CONTROL AND PREVENTION, HIV AMONG INCARCERATED POPULATIONS (2015), available at <http://www.cdc.gov/hiv/group/correctional.html>.

⁶ INT'L CTR. FOR PRISON STUD., WORLD PRISON POPULATION LIST (2013), available at http://www.prisonstudies.org/sites/default/files/resources/downloads/wppl_10.pdf.

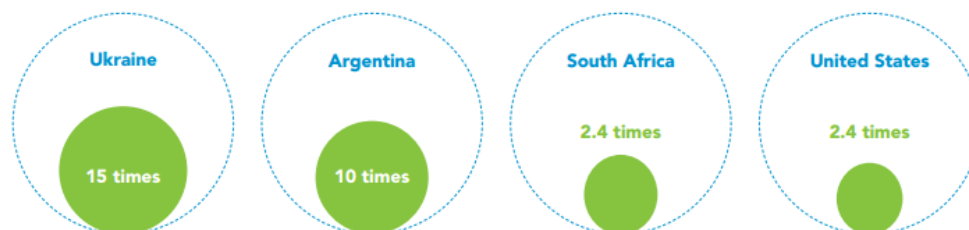
⁷ UNITED NATIONS OFFICE ON DRUGS AND CRIME ET AL., HIV AND PRISONS IN SUB-SAHARAN AFRICA: OPPORTUNITIES FOR ACTION (2007), available at https://www.unodc.org/documents/hiv-aids/Africa%20HIV_Prison_Paper_Oct-23-07-en.pdf.

⁸ WORLD HEALTH ORG., CONSOLIDATED GUIDELINES ON HIV PREVENTION, DIAGNOSIS, TREATMENT AND CARE FOR KEY POPULATIONS (2014), available at http://apps.who.int/iris/bitstream/10665/128048/1/9789241507431_eng.pdf?ua=1.

in 2010, there were 20 093 inmates with HIV in state and federal prisons⁹; each year, an estimated one in seven persons living with HIV spend time in a correctional facility¹⁰. Isolated from public health services, including national programmes, prisons and other closed settings are often seriously neglected in national prevention, treatment and care responses to HIV, hepatitis and TB¹¹.

Figure 1. HIV prevalence in prisoners and general adult population in selected countries¹²

HIV prevalence is higher among prisoners than in the general adult population in many countries



Global level commitment to uphold rights of prisoners

9. In accordance with the 2030 Agenda for Sustainable Development,¹³ the global community and Member States, in particular, have committed to ensure healthy lives and promote well-being for all at all ages as specified in Sustainable Development Goal (SDG) 3. Many countries are on a trajectory to end AIDS, TB and malaria and combat hepatitis and other communicable diseases (target 3), and aim to achieve universal health coverage (target 8) among other relevant targets, including through promoting proper prevention, treatment and care for people living with or at risk of HIV among prison populations. SDG 5 articulates the targets tracing the path towards gender equality and empowering all women and girls, including those in prisons and closed settings. A pivotal aim in SDG 10 is to reduce inequality within and among countries. Targets 3 and 4 under this SDG envisage the reduction of inequalities, the elimination of discriminatory laws and policies and the promotion of social protection policies, constituting a call for action for equal treatment for all people, including those in prison. In line with targets under SDG 16 on peaceful and inclusive societies (particularly targets 3, 6, 10, and B), countries should promote the rule of law to ensure equal access to justice for all; develop effective, accountable, and transparent institutions at all levels; protect fundamental freedoms; and promote and enforce non-discriminatory laws and policies.

⁹ CTRS. FOR DISEASE CONTROL AND PREVENTION, HIV AMONG INCARCERATED POPULATIONS (2015), available at <http://www.cdc.gov/hiv/group/correctional.html>.

¹⁰ CTRS. FOR DISEASE CONTROL AND PREVENTION, HIV IN CORRECTIONAL SETTINGS (2012), available at <http://www.cdc.gov/hiv/resources/factsheets/pdf/correctional.pdf>.

¹¹ UNITED NATIONS OFFICE ON DRUGS AND CRIME, HIV IN PRISONS: SITUATION AND NEEDS ASSESSMENT TOOLKIT (2010), available at http://www.unodc.org/documents/hiv-aids/publications/HIV_in_prisons_situation_and_needs_assessment_document.pdf.

¹² UNAIDS, THE GAP REPORT (2014), available at:

http://www.unaids.org/sites/default/files/media_asset/UNAIDS_Gap_report_en.pdf

¹³ Transforming our world: the 2030 Agenda for Sustainable Development, A/70/L.1 (adopted September 25, 2015). Available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N15/285/73/PDF/N1528573.pdf?OpenElement>.

10. The Standard Minimum Rules for the Treatment of Prisoners set forth in resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977 should be fully upheld, to advance human rights in support to the achievement of these goals and targets.¹⁴ HIV services, including prevention and antiretroviral treatment, are covered in Section 22, which states that prisoners must be provided with medical care and supervision, and that facilities must be suitable to provide care and treatment.¹⁵
11. The revised United Nations Standard Minimum Rules for the treatment of Prisoners, approved by the Commission on Crime Prevention and Criminal Justice¹⁶, and approved by the Economic and Social Council of the United Nations (ECOSOC) in 2015,¹⁷ emphasize that the provision of health care for prisoners is a governmental responsibility. These Minimum Rules further recognized that prisoners should enjoy the same standards of health care that are available in the community and have access to necessary health care services free of charge without discrimination on the grounds of their legal status. The rules also indicate that health care services should be organized in close relationship to the general public health administration and in a way that ensures continuity of treatment and care, including for HIV, TB and other infectious diseases, as well as for drug dependence¹⁸.
12. In paragraph 60 of the 2011 Political Declaration on HIV and AIDS: Intensifying Our Efforts to Eliminate HIV and AIDS¹⁹, Member States pledged to ensure that financial resources for prevention are targeted to evidence-based prevention measures that reflect the specific nature of each country's epidemic by focusing on geographic locations, social networks and populations vulnerable to HIV. Towards this end, particular attention is paid to women and girls, young people, orphans and vulnerable children, migrants and people affected by humanitarian emergencies, prisoners, indigenous people and people with disabilities, depending on local circumstances.
13. The Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), endorsed by the UN General Assembly, indicate that programmes and services that are responsive to the specific needs of women, including prevention of mother-to-child transmission of HIV, are important in developing responses to HIV in penal institutions²⁰.
14. With respect to alternatives to imprisonment are concerned, the United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules), which

¹⁴ United Nations Doc. A/RES/68/309.

¹⁵ United Nations Human Rights Office of the High Commissioner for Human Rights, STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS, Section 22 (1995).

¹⁶ Commission on Crime Prevention and Criminal Justice, E/CN.15/2015/L.6/Rev.1, Twenty-fourth session Vienna, 18-22 May 2015, http://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_24/resolutions/L6_Rev1/ECN152015_L6Rev1_e_V1503585.pdf.

¹⁷ Commission on Crime Prevention and Criminal Justice. Twenty-fourth session. Vienna, 18-22 May 2015. Agenda item 6.

¹⁸ Political Declaration on HIV and AIDS: Intensifying our Efforts to Eliminate HIV and AIDS, adopted July 8, 2011, available at: http://www.unaids.org/sites/default/files/sub_landing/files/20110610_UN_A-RES-65-277_en.pdf.

¹⁹ United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) Resolution adopted by the General Assembly on 21 December 2010 on the report of the Third Committee (A/65/457) 65/229. Available at <http://www.un.org/en/ecosoc/docs/2010/res%202010-16.pdf>.

²⁰ G.A. Res. 45/110.

were adopted in 1986²¹, are especially important. These rules have as one of their fundamental aims the reduction of the use of imprisonment (rule 1.5)

15. Under Strategic Direction 3 (Advance human rights and gender equality), the UNAIDS Strategy 2011-2015²² identified prisoners and people in pre-trial and immigration detention as populations at risk of HIV, as well as key for the response. The upcoming UNAIDS Strategy 2016-2021 acknowledges existing gaps in adequate health services in prisons and closed settings and provides for a result area on tailored HIV prevention services accessible for key populations, including prisoners, as well as for a public health approach in prisons and alternatives for incarceration. The UNAIDS 2012-2015 Unified Budget, Results and Accountability Framework (UBRAF)²³ contributed to the review and adaptation of national legislation and policies concerning narcotic drugs, criminal justice, prison management and HIV, and facilitated the provision of HIV prevention, treatment, care and support services in prisons and other closed settings. The UBRAF 2016-2021 provides for strengthening access to HIV treatment in prisons and linkages with health facilities in the community, and evidence-based HIV prevention services for key populations.

Regional efforts to protect health of people in prisons and other closed settings

16. Important commitments have also been made by various regional bodies to respond in an evidence-informed and rights-based manner to HIV and other health needs for people in prisons and other closed settings. One of the priorities identified in the European Union Drug Strategy 2013 - 2020 is to scale up the development, availability and coverage of drug demand reduction (including harm reduction) measures in prison settings, as appropriate and based on a proper assessment of the health situation and the needs of prisoners, with the aim of achieving a quality of care equivalent to that provided in the community and in accordance with the right to health care and human dignity²⁴⁻²⁵.
17. In 2009, 27 Sub Saharan African countries adopted the African Declaration of Commitment on HIV in prisons and committed to promote and protect the rights of people deprived of their liberty and to provide comprehensive, evidence-based TB and HIV prevention, treatment, care and support in prisons²⁶.
18. In an effort to strengthen the capacities of the Latin American and Caribbean States, UNODC in collaboration with UNAIDS created the Monitoring Centre on HIV, Prisons,

²¹ United Nations Doc. A/RES/45/110.

²² JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS (UNAIDS), GETTING TO ZERO: 2011-2015 STRATEGY (2010), available at http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/documents/unaidspublication/2010/JC2034_UNAIDS_Strategy_en.pdf.

²³ JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS (UNAIDS), UNIFIED BUDGET, RESULTS AND ACCOUNTABILITY FRAMEWORK 2012-2015 (2012), available at http://www.unaids.org/sites/default/files/sub_landing/files/JC2353%20UBRAF_en_0.pdf.

²⁴ COUNCIL OF THE EUROPEAN UNION, EU DRUGS STRATEGY 2013-2010 (adopted on December 7, 2012), available at <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2017547%202012%20INIT>.

²⁵ HARM REDUCTION INT'L, THE GLOBAL STATE OF HARM REDUCTION 2014 20 (2014), available at <http://www.ihra.net/files/2015/02/16/GSHR2014.pdf>.

²⁶ AFR. HIV IN PRISONS P'SHIP NETWORK, AFRICAN DECLARATION OF COMMITMENT FOR HIV AND AIDS PREVENTION CARE, TREATMENT AND SUPPORT IN PRISONS (adopted in 2009), available at <http://www.ahppn.com/wp-content/uploads/2013/07/AHPPN-Africa-Declaration-of-Commitment-English-REV-2.-05.07.2010.pdf>.

Drugs and Human Trafficking, in the context of the global commitment to address HIV²⁷.

Technical guidance built on evidence of effective rights-based and gender-responsive public health interventions in prisons

19. The scientific evidence regarding effective HIV and health interventions for people in prisons and other closed settings is now clear and has been distilled into normative guidance. Drawing on this robust evidence base, UNODC, ILO, UNDP, WHO and UNAIDS developed in 2013 a Comprehensive Package of 15 key interventions and key recommendations that, when applied holistically, have the greatest impact on upholding the highest attainable standard of health for people in prisons and other closed settings²⁸: (1) information, education and communication; (2) voluntary HIV testing and counselling; (3) treatment, care and support; (4) prevention, diagnosis and treatment of TB; (5) prevention of mother-to-child transmission of HIV; (6) condom programmes; (7) prevention and treatment of sexually transmitted infections; (8) prevention of sexual violence; (9) drug dependence treatment; (10) needle and syringe programmes; (11) vaccination, diagnosis and treatment of viral hepatitis; (12) post-exposure prophylaxis; (13) prevention of transmission through medical or dental services; (14) prevention of transmission through tattooing, piercing and other forms of skin penetration; and (15) protecting staff from occupational hazards.
20. In 2014, WHO developed consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations, bringing together all existing guidance relevant to five key populations, including people in prisons and other closed settings, and updating selected guidance and recommendations. These guidelines aim to: provide a comprehensive package of evidence-based HIV-related recommendations for all key populations; increase awareness of their needs; improve access, coverage and uptake of effective and acceptable services; and catalyse greater national and global commitment to adequate funding and services²⁹.

THE GAPS: PEOPLE IN PRISONS AND OTHER CLOSED SETTINGS ARE LEFT BEHIND IN THE HIV RESPONSE

21. People in prisons and other closed settings do not forego their human rights while in detention, including their right to the highest attainable standard of health. However, as the scarce data available indicates, they are left behind in the quest to end ill health and promote well-being, for a variety of reasons, including (1) the overrepresentation of key populations; (2) overcrowding, poor hygiene and nutrition; (3) violence and unsafe behaviours; (4) lack of access to basic health services and high prevalence of various communicable diseases;³⁰ and (5) human rights

²⁷ UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC) AND JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS (UNAIDS), MONITORING CENTRE ON HIV, PRISONS, DRUGS AND HUMAN TRAFFICKING <http://observatoriovihycarceles.org/index.php?lang=en> (accessed on October 2, 2015).

²⁸ UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC) ET AL., POLICY BRIEF: HIV PREVENTION, TREATMENT AND CARE IN PRISONS AND OTHER CLOSED SETTINGS: A COMPREHENSIVE PACKAGE OF INTERVENTION (2013), available at https://www.unodc.org/documents/hiv-aids/HIV_comprehensive_package_prison_2013_eBook.pdf.

²⁹ WORLD HEALTH ORG., CONSOLIDATED GUIDELINES ON HIV PREVENTION, DIAGNOSIS, TREATMENT AND CARE FOR KEY POPULATIONS, (July 2014), available at http://apps.who.int/iris/bitstream/10665/128048/1/9789241507431_eng.pdf?ua=1&ua=1.

³⁰ United Nations Office on Drugs and Crime (UNODC) et al., HIV AND AIDS IN PLACES OF DETENTION: A TOOLKIT FOR POLICYMAKERS, PROGRAMME MANAGERS, PRISON OFFICERS AND HEALTH CARE PROVIDERS IN PRISON

violations, stigma and discrimination, and particular vulnerabilities of women, transgender people, and young people.

22. TB and HIV are major threats to prison health, with HIV prevalence as high as 50% in prison settings, TB incidence rates on average 23 times higher than in the general population³¹, higher rates of TB drug resistance³² and much higher death rates than in communities outside prison settings. Furthermore, HIV is a key reason why latent TB in prisoners too often progresses to active disease; TB is the single greatest cause of death among people living with HIV³³. The prevalence of HCV is far higher among people held in prison, particularly among those with a history of injecting drug use³⁴. In France, estimates indicate 4.8% of prisoners have HCV infection, with much higher prevalence in women (11.8%) than men (4.5%)³⁵.
23. All modes of transmission occurring in the general population also occur in prisons. HIV is transmitted in prison settings through the sharing of contaminated injecting equipment among people who inject drugs³⁶; consensual or coerced unsafe sexual practices including rape³⁷; unsafe skin piercing and tattooing practices; sharing of shaving razors, blood brotherhood rituals³⁸ and the improper sterilization or reuse of medical or dental instruments³⁹. As in the community, HIV may also be transmitted in prisons from mothers living with HIV to their infants during pregnancy or delivery⁴⁰. Despite these vulnerabilities, prevention, treatment and care services for HIV and other infectious diseases are rarely adequate or often unavailable at all in prison settings.

Overly broad criminal laws and their misuse lead to overrepresentation of key populations

24. The high incarceration rates among key populations that lead to overcrowding largely stem from inappropriate, ineffective or excessive national laws and criminal justice

SETTINGS (2008), available at <https://www.unodc.org/documents/hiv-aids/V0855768.pdf>; United Nations Office on Drugs and Crime, HIV IN PRISONS: SITUATION AND NEEDS ASSESSMENT TOOLKIT (2010), available at http://www.unodc.org/documents/hiv-aids/publications/HIV_in_prisons_situation_and_needs_assessment_document.pdf.

³¹ I. Baussano et al, *Tuberculosis Incidence in Prisons: A Systematic Review*, 7 PLoS Med 12 (2010).

³² M. Ruddy et al, *Rates of Drug Resistance and Risk Factor Analysis in Civilian and Prison Patients With Tuberculosis in Samara Region*, 60 RUSSIA THORAX 130 (2005).

³³ V. Martin et al, *Incidence of Tuberculosis and the Importance of Treatment of Latent Tuberculosis Infection in a Spanish Prison Population*, 5 INT'L J. TUBERCULOSIS & LUNG DISEASE 926 (2001).

³⁴ S. Larney et al., *The Incidence and Prevalence of Hepatitis C in Prisons and Other Closed Settings: Results of a Systematic Review and Meta-analysis*, 58 HEPATOLOGY 1215 (2013).

³⁵ C Semaille Y Le Strat et al., The Prevacar Group, *Prevalence of Human Immunodeficiency Virus and Hepatitis C Virus Among French Prison Inmates in 2010: A Challenge for Public Health Policy* (2013) available at <http://www.eurosurveillance.org/images/dynamic/EE/V18N28/art20524.pdf>.

³⁶ INT'L HIV/AIDS ALLIANCE AND COMMONWEALTH HIV AND AIDS ACTION GROUP, ENABLING LEGAL ENVIRONMENTS FOR EFFECTIVE HIV RESPONSES: A LEADERSHIP CHALLENGE FOR THE COMMONWEALTH (2010), available at <http://www.hivpolicy.org/Library/HPP001810.pdf>.

³⁷ INT'L HIV/AIDS ALLIANCE AND COMMONWEALTH HIV AND AIDS ACTION GROUP, ENABLING LEGAL ENVIRONMENTS FOR EFFECTIVE HIV RESPONSES: A LEADERSHIP CHALLENGE FOR THE COMMONWEALTH (2010), available at <http://www.hivpolicy.org/Library/HPP001810.pdf>.

³⁸ K. C. Goyer, Institute for Security Studies Monographs, HIV/AIDS IN PRISON, PROBLEMS, POLICIES AND POTENTIAL 103 (2003).

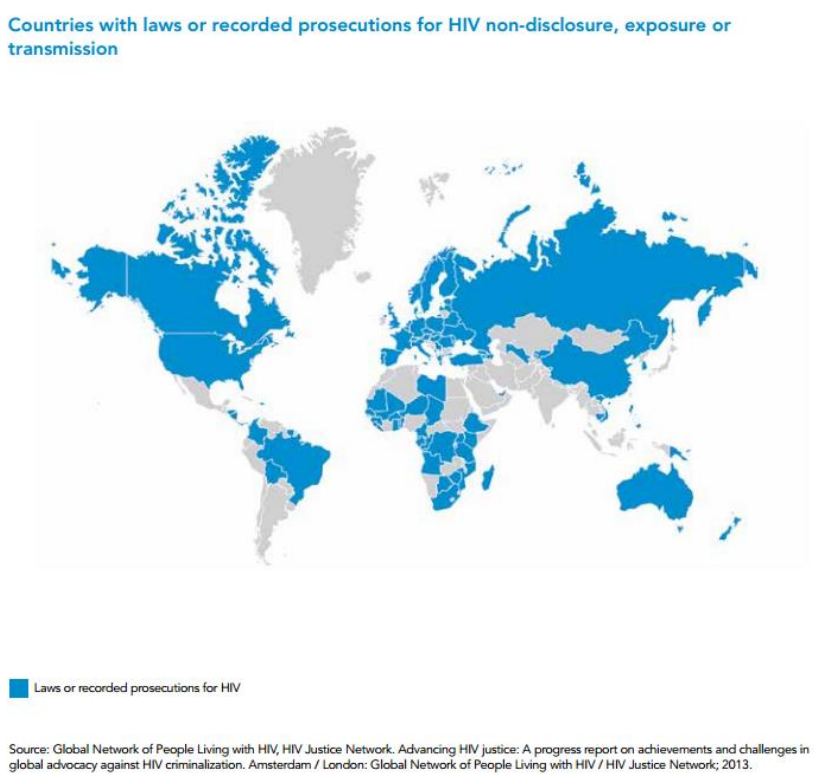
³⁹ United Nations Office on Drugs and Crime (UNODC) et al., HIV/AIDS PREVENTION, CARE, TREATMENT AND SUPPORT IN PRISON SETTINGS A FRAMEWORK FOR AN EFFECTIVE NATIONAL RESPONSE (2006), available at https://www.unodc.org/documents/hiv-aids/HIV-AIDS_prisons_Oct06.pdf.

⁴⁰ United Nations Office on Drugs and Crime (UNODC) et al., HIV/AIDS PREVENTION, CARE, TREATMENT AND SUPPORT IN PRISON SETTINGS A FRAMEWORK FOR AN EFFECTIVE NATIONAL RESPONSE (2006), available at https://www.unodc.org/documents/hiv-aids/HIV-AIDS_prisons_Oct06.pdf.

policies. These laws are widespread across countries and regions, and particularly affect people living with HIV and other key populations. People who are poor, discriminated against and marginalized by society disproportionately populate prisons all over the world⁴¹.

25. Overly broad laws and prosecutions for HIV non-disclosure, exposure and transmission have been recorded in all regions of the world⁴². The Commission on HIV and the Law recommended the review of all convictions of those prosecuted for HIV exposure, non-disclosure and transmission, and that the accused immediately be released from prison with pardons or similar actions to ensure that these charges do not remain on criminal or sex offender records⁴³.

Figure 2. Distribution of countries with overly broad HIV criminalisation laws or recorded prosecutions⁴⁴



26. It has been estimated that 56-90% of people who inject drugs will be incarcerated at some stage and that people who use or inject drugs may constitute up to 50% of the population in closed settings. Yet, drug dependence treatment, opioid substitution therapy and needle and syringe programmes in prisons are exceedingly rare and

⁴¹ R. A. Brewer, *The High Prevalence of Incarceration History Among Black Men Who Have Sex With Men in the United States: Associations and Implications*, 104 Am. J. PUBLIC HEALTH 448 (2014).

⁴² Global Network of People Living with HIV and the HIV Justice Network, *ADVANCING HIV JUSTICE: A PROGRESS REPORT ON ACHIEVEMENTS AND CHALLENGES IN GLOBAL ADVOCACY AGAINST HIV CRIMINALIZATION* (2013).

⁴³ GLOBAL COMMISSION ON HIV AND THE LAW, *RISKS, RIGHTS & HEALTH* (July 2012), available at <http://www.hivlawcommission.org/resources/report/FinalReport-Risks,Rights&Health-EN.pdf>.

⁴⁴ UNAIDS, *THE GAP REPORT* (2014) p. 124, available at: http://www.unaids.org/sites/default/files/media_asset/UNAIDS_Gap_report_en.pdf

often completely lacking⁴⁵. In the USA, for example, it is estimated that 24-36% of all people using heroin pass through the correctional system each year, representing more than 200,000 individuals⁴⁶. In 2014, 28 countries in Europe and Central Asia (15 European Union/European Economic Area (EU/EEA) and 13 non-EU/EEA countries) reported overlapping HIV risk between prisoners and people who inject drugs (PWID); all seven countries that reported HIV prevalence above 5% among prisoners also reported high HIV prevalence among PWID in the general population⁴⁷.

27. Criminalization of same-sex sexual activity in 75 countries⁴⁸, and of cross-dressing and other expressions of gender identity in a number of countries, result in imprisonment of members of the lesbian, gay, bisexual, transgender and intersex (LGBTI) community, who face major risks in prisons due to homophobia and sexual violence⁴⁹. Data from the USA indicate that nearly one in six transgender people have been incarcerated at some point in their lives—far higher than the rate for the general population. Among African-American transgender people, nearly half (47%) have been incarcerated⁵⁰. Most countries in the world criminalize some aspect of sex work⁵¹, leading to an overrepresentation of people in sex work in prisons.

Overcrowding is exacerbating health risks

28. Prison overcrowding is a global problem that undermines efforts to respond effectively to infectious diseases and other health problems. On a global scale, the prison population is growing rapidly. According to the International Center for Prison Studies (ICPS), 113 countries have a prison occupancy of more than 100%, including 22 with occupancy above 200% (10 in Africa)⁵².

Figure 3. Overcrowding in prison settings in selected countries, 2014⁵³

⁴⁵ B.T. Montague et al., *Tracking Linkage to HIV Care for Former Prisoners: A Public Health Priority*, 3 VIRULENCE 319 (2012).

⁴⁶ Kate Dolan et al., *People Who Inject Drugs in Prison: HIV Prevalence, Transmission and Prevention*, 26 INT'L J. OF DRUG POL'Y S12 (2015), available at <http://www.sciencedirect.com/science/article/pii/S095539591400293X>.

⁴⁷ EUROPEAN CTR. FOR DISEASE PREVENTION & CONTROL, MONITORING IMPLEMENTATION OF THE DUBLIN DECLARATION ON PARTNERSHIP TO FIGHT HIV/AIDS IN EUROPE AND CENTRAL ASIA: 2014 PROGRESS REPORT, ECDC SPECIAL REPORT, THEMATIC REPORT: PRISONERS (2013), available at <http://ecdc.europa.eu/en/publications/Publications/dublin-declaration-prisoners-2014.pdf>.

⁴⁸ INT'L LESBIAN, GAY, BISEXUAL, TRANS & INTERSEX ASS'N, STATE-SPONSORED HOMOPHOBIA (2015), available at http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2015.pdf.

⁴⁹ NAT'L CTR. FOR TRANSGENDER EQUALITY, ISSUES: POLICE, JAILS, AND PRISONS, <http://transequality.org/issues/police-jails-prisons>, accessed on Oct. 2, 2015.

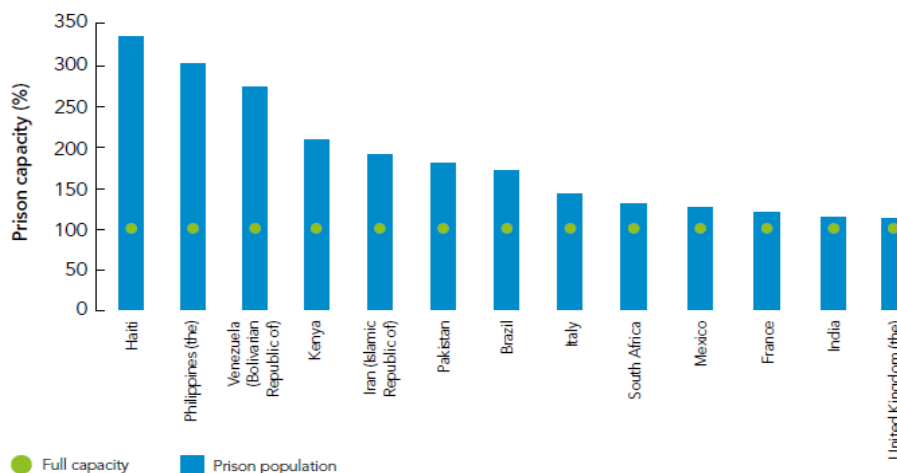
⁵⁰ Jaime Grant et al., *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, National Center for Transgender Equality and National Gay and Lesbian Task Force (2011). http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf.

⁵¹ Sexuality, Poverty & Law Programme, *Map of sex work law*, available at <http://www.spl.ids.ac.uk/sexworklaw>.

⁵² INT'L CTR. FOR PRISON STUDS., WORLD PRISON BRIEF, available at <http://www.prisonstudies.org/world-prison-brief>.

⁵³ INT'L CTR. FOR PRISON STUDS., WORLD PRISON BRIEF, available at <http://www.prisonstudies.org/world-prison-brief>.

Overcrowding is found in prison settings in countries all around the world



Source: International Centre for Prison Studies – World Prison Briefs <http://www.prisonstudies.org/world-prison-brief>.

29. Substandard living conditions and overcrowding can increase the risk of HIV transmission among prisoners by promoting and encouraging drug use in response to boredom or stress (most often involving unsafe injecting practices) and by enabling prison violence, fighting, bullying, sexual coercion and rape. These conditions may also have a negative impact on the health of prisoners living with HIV by: increasing their exposure to infectious diseases, such as TB and viral hepatitis; encouraging housing of prisoners in unhygienic and unsanitary environments; confining prisoners in spaces that do not meet the minimum requirements for size, natural lighting and ventilation; limiting access to open-air and to educational, social or work activities; and failing to provide access to proper health care, diet, nutrition and/or clean drinking water, and basic hygiene⁵⁴. Overcrowding and ventilation are the two main environmental conditions in which TB thrives. In Brazil, improving ventilation to WHO standards decreased TB transmission by 38.2%, whereas optimizing cross-ventilation reduced transmission by 64.4%⁵⁵. If prisons in South Africa conformed to international standards of acceptable number of prisoners in cells, it has been estimated that the risk of TB for inmates would be halved⁵⁶. Overcrowding also strains health care provision in prisons; in Bangladesh, one prison has 16 health care workers for 90 000 inmates⁵⁷.
30. Segregation of people living with HIV is a commonplace practice. In the State of Alabama in the USA, formal policy called for the segregation of all prisoners with HIV, housing them separately, excluding them from a host of prison rehabilitative services, jobs and vocational training opportunities, and mental health, substance abuse, and educational programs, and publicly stigmatizing them. Plaintiffs on behalf

⁵⁴ R. Jürgens et al., *HIV and Incarceration: Prisons and Detention*, 14 J. INT'L AIDS Soc'y 26 (2011).

⁵⁵ J. Urrego et al., *The Impact of Ventilation and Early Diagnosis on Tuberculosis Transmission in Brazilian Prisons*, AM. J. TROP. MED. HYG. 166 (2015).

⁵⁶ PlusNews, *South Africa: Overcrowding Fuels TB in Prisons*, <http://www.irinnews.org/report/95684/south-africa-overcrowding-fuels-tb-in-prisons> (2012).

⁵⁷ F. Biadlegne et al., *Review of the prevalence and drug resistance of tuberculosis in prisons: a hidden epidemic*, 143 EPIDEMIOLOGY AND INFECTION 887 (2015), http://journals.cambridge.org/download.php?file=%2FHYG%2FHYG143_05%2FS095026881400288Xa.pdf&code=1390ea6214f05a09ad870197ef071dd8.

of all current and future HIV-positive prisoners in the custody of the Alabama Department of Corrections filed suit in 2011 challenging the policy, and succeeded in convincing a court to invalidate it in September 2013⁵⁸. The court found that the segregation policy violated a broad range of rights of prisoners living with HIV⁵⁹.

31. Because of weak criminal justice systems, people may have to remain in detention for long periods during the investigation of a crime, while awaiting trial and before sentencing. The arbitrary and excessive use of pre-trial detention around the world is a massive form of human rights abuse that affects more than 14 million people a year⁶⁰. Pre-trial detainees represent, on average, 30% of the population in closed settings. These delays increase the likelihood of breakdowns in access to services, thereby exacerbating risks of acquiring HIV. In some countries, access to health care in pre-trial detention is even lower than in prisons⁶¹.

Sexual violence, unsafe sexual practices and unsafe drug injection practices are prevalent

32. Sexual violence and unsafe sexual practices are common in prisons, while there is little or no access to prevention commodities such as condoms and lubricants. The actual prevalence of sexual activity is likely to be much higher than that reported, mainly due to denial, fear of stigma and homophobia as well as the criminalization of sex between men⁶². About 25% of prisoners suffer violence each year, around 4-5% experience sexual violence and 1-2% are raped⁶³⁻⁶⁴. Violence is exacerbated in conditions of overcrowded prison facilities⁶⁵.
33. People who inject drugs often continue drug use inside prison while others may inject drugs for the first time while in prison. Based on a review of 41 studies from 26 countries (mostly in Europe) and supplemented with data reported by Member States to the UNODC, drug use in prisons has been shown to be highly prevalent⁶⁶. There are indications that one third of prisoners have used a drug at least once while incarcerated. In Europe, of the 12 countries reporting to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) on injecting drug use by prisoners, four countries report levels above 10% (Luxembourg - 31%; Germany - 22%; Portugal - 11%; and Latvia, 10%)⁶⁷.

⁵⁸ *Henderson v. Thomas*, 891 F.Supp. 2d 1296 (2012).

⁵⁹ Margaret Winter, *Stigmatized No Longer: The End of HIV Segregation in Alabama Prisons*, JURIST - Sidebar, Oct. 9, 2013, <http://jurist.org/sidebar/2013/10/margaret-winter-HIV-segregation.php>.

⁶⁰ Open Society Justice Initiative, *Presumption of Guilt: The Global Overuse of Pretrial Detention* (2014), accessed at <https://www.opensocietyfoundations.org/publications/presumption-guilt-global-overuse-pretrial-detention-overuse-pretrial-detention>.

⁶¹ Handbook on strategies to reduce overcrowding in prisons; https://www.unodc.org/documents/justice-and-prison-reform/Overcrowding_in_prisons_Ebook.pdf

⁶² United Nations Office on Drugs and Crime et al., *HIV and prisons in sub-Saharan Africa: opportunities for action* (2007), available at https://www.unodc.org/documents/hiv-aids/Africa%20HIV_Prison_Paper_Oct-23-07-en.pdf.

⁶³ WORLD HEALTH ORG. REGIONAL OFFICE FOR EUROPE, PRISONS AND HEALTH (2014), available at <http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/publications/2014/prisons-and-health>.

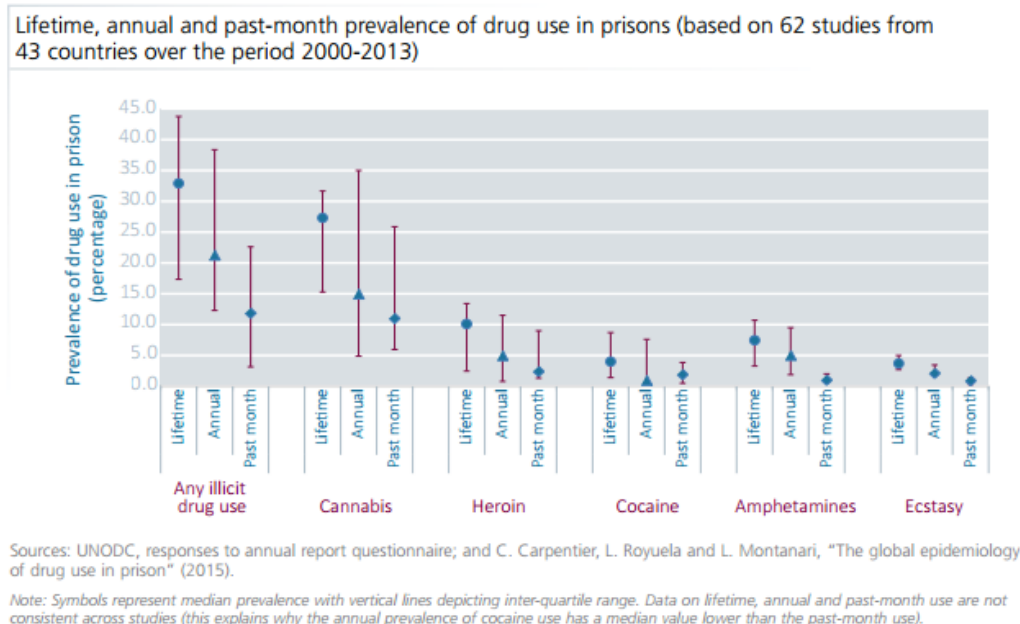
⁶⁴ N. Wolff, *Rates of Sexual Victimization in Prison for Inmates with and without Mental Disorders*, 7 PSYCHIATR SERV. 1087 (2007).

⁶⁵ Steiner et al., *The Impact of Inmate and Prison Characteristics on Prisoner Victimization*, TRAUMA VIOLENCE ABUSE. (2015).

⁶⁶ Chloé Carpentier et al., *THE GLOBAL EPIDEMIOLOGY OF DRUG USE IN PRISONERS: EPIDEMIOLOGY, IMPLICATIONS AND POLICY RESPONSES* (forthcoming).

⁶⁷ EMCDDA, Statistical Bulletin 2014, available at www.emcdda.europa.eu/.

Figure 4. Drug use in prisons⁶⁸



34. Prison is a high-risk, controlled environment where drug use, including injecting drug use, often takes place in particularly unsafe conditions⁶⁹. Unsterile injection equipment is often shared in the absence of needle and syringe provision⁷⁰. A number of studies have found that prisoners are more likely to share injection equipment while they are in prison than they were prior to imprisonment. In the Republic of Ireland, 70.5% of PWID surveyed reported sharing needles while imprisoned, compared to 45.7% in the month before incarceration⁷¹. In Estonia, 55% of PWID injected drugs while in prison, with 84% of them using injecting equipment that someone else had already used⁷². In other countries, high levels of sharing of needles and syringes have also been documented in prisons: 56% in Pakistan, 66% in the Russian Federation, 70-90% in Australia, 78% in Thailand; 83-92% in Greece⁷³; and 96% among the 56% of inmates in an Indonesian prison reporting injecting drugs⁷⁴.

There are gaps in availability of HIV services in prisons

35. Health care in prison settings is typically limited and usually fails to reach the level and quality available in the community. These shortcomings stem from budgetary

⁶⁸ Chloé Carpentier et al., THE GLOBAL EPIDEMIOLOGY OF DRUG USE IN PRISONERS: EPIDEMIOLOGY, IMPLICATIONS AND POLICY RESPONSES (forthcoming).

⁶⁹ United Nations Office on Drugs and Crime et al., World Drug Report 2015 available at https://www.unodc.org/documents/wdr2015/World_Drug_Report_2015.pdf.

⁷⁰ R. Jürgens et al., HIV and Incarceration: Prisons and Detention, 14 J. INT'L AIDS SOC'Y 26 (2011).

⁷¹ Allwright, S. et al., Prevalence of Antibodies to Hepatitis B, Hepatitis C, and HIV and Risk Factors in Irish Prisoners: Results of a National Cross Sectional Survey, 323 BRITISH MEDICAL JOURNAL 1209 (2000).

⁷² EUROPEAN CTR. FOR DISEASE PREVENTION & CONTROL, MONITORING IMPLEMENTATION OF THE DUBLIN DECLARATION ON PARTNERSHIP TO FIGHT HIV/AIDS IN EUROPE AND CENTRAL ASIA: 2014 PROGRESS REPORT, ECDC SPECIAL REPORT, THEMATIC REPORT: PRISONERS (2013), available at <http://ecdc.europa.eu/en/publications/Publications/dublin-declaration-prisoners-2014.pdf>.

⁷³ Kate Dolan et al., People Who Inject Drugs in Prison: HIV Prevalence, Transmission and Prevention, 26 INT'L J. OF DRUG POL'Y S12 (2015), available at <http://www.sciencedirect.com/science/article/pii/S095539591400293X>.

⁷⁴ G.J. Culbert et al. Within-prison Drug Injection Among HIV-infected Male Prisoners in Indonesia: A Highly Constrained Choice, 149 DRUGS AND ALCOHOL DEPENDENCE 71 (2015).

constraints, along with legal and policy barriers and low political will to invest in prisoners' care⁷⁵. Treatment retention and adherence are often jeopardized when people living with HIV are arrested and/or incarcerated. In addition, services are often disrupted during institutional transfers and after release from prison⁷⁶. Time and again, courts have found that this systematic failure to provide people in prisons and other closed settings with the necessary medical care amounts to inhumane and degrading treatment, in violation of human rights principles⁷⁷.

36. Critical HIV services that may be available in the community are often unavailable in prisons. Health care in prisons is often provided by the ministry responsible for prison administration rather than by public health authorities⁷⁸. Consequently, prison-based services for HIV and coinfections are often disconnected from national public health programmes.
37. Voluntary and confidential HIV testing and counselling is an important entry point for ensuring access to HIV prevention, treatment and care for people in prisons and closed settings, with rapid testing increasing the likelihood that prisoners will know their HIV status⁷⁹. However, lack of confidentiality, mandatory HIV testing or treatment (without informed consent), denial of treatment are commonplace violations of prisoners' rights further deterring them from seeking the health-related services they need⁸⁰.
38. As multiple studies have shown, prisoners respond well to antiretroviral therapy when provided with care and access to medications⁸¹. However, limited data are available on HIV treatment coverage with in prisons and other closed settings. Adherence rates in prisons can be as high as or higher than among patients in the community, but the gains in health status made during the term of incarceration may be lost unless careful discharge planning and linkage to community care are undertaken. For example, a recent systematic review of data from the USA and Canada indicates that approximately 54% of people living with HIV were receiving antiretroviral therapy before incarceration and 65% received HIV treatment during incarceration, but only and 37% received antiretroviral therapy after release⁸².
39. There are significant gaps in HIV prevention services in most prisons in the world. Available evidence indicates that most harm reduction programmes can be implemented within prisons without compromising security or increasing illicit drug use⁸³. For example, opioid substitution therapy (OST), a proven HIV prevention approach for prisoners who inject drugs, was available in prisons in only 43 countries

⁷⁵ *Prisoners and HIV/AIDS* (2014), http://www.avert.org/prisonershivaids.htm#footnote1_60dr9hk.

⁷⁶ B.T. Montague et al., *Tracking Linkage to HIV Care for Former Prisoners: A Public Health Priority*, 3 VIRULENCE 319 (2012).

⁷⁷ Among most recent, *M.S. v. Russia*, 10 July 2014, ECtHR, Application no. 8589/08; *Reshetnyak v. Russia*, 8 January 2013, ECtHR, Application no. 56027/10; *LOGVINENKO v. UKRAINE*, 14.10.10, ECtHR, Application no. 13448/07; *Plata v. Brown*, C-01-1351 THE (N.D. Cal.) 07/23/2015, California, the U.S.

⁷⁸ R. Jürgens et al., *HIV and Incarceration: Prisons and Detention*, 14 J. INT'L AIDS Soc'y 26 (2011).

⁷⁹ C.G. Beckwith et al., *HIV risk behavior before and after HIV counseling and testing in jail*, 53 J ACQUIR IMMUNE DEFIC SYNDR 485 (2009).

⁸⁰ United Nations Office on Drugs and Crime (UNODC) et al., *Policy brief: HIV prevention, treatment and care in prisons and other closed settings: a comprehensive package of intervention* (2013), available at https://www.unodc.org/documents/hiv-aids/HIV_comprehensive_package_prison_2013_eBook.pdf.

⁸¹ WHO/HIV/2014.12. HEALTH INTERVENTIONS FOR PRISONERS: UPDATE OF THE LITERATURE SINCE 2007, Ameet Schwitters, CDC/Atlanta.

⁸² Princess A. Iroh, *The HIV Care Cascade Before, During, and After Incarceration: A Systematic Review and Data Synthesis*, 105 AM. J. OF PUBLIC HEALTH (2015).

⁸³ Kerr, et al., *Harm Reduction in Prisons: A Rights Based Analysis*, 14 CRIT. PUBLIC HEALTH 345 (2004).

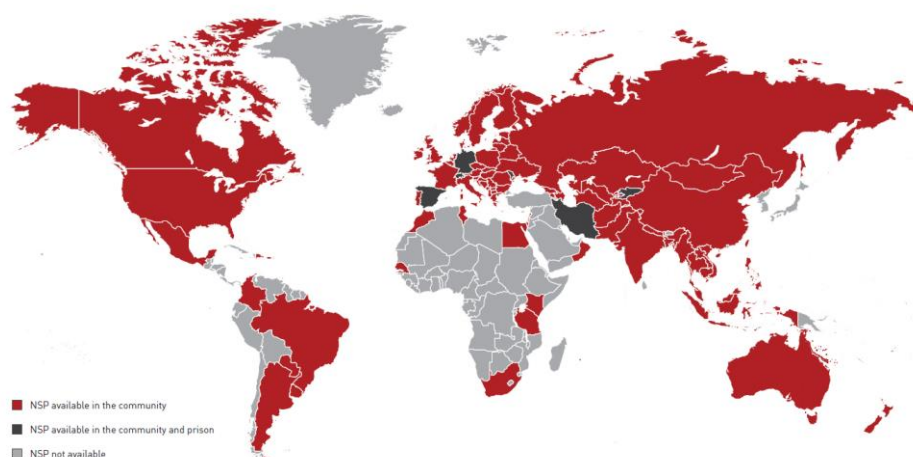
A world map illustrating the availability of OST (Opioid Substitution Therapy) in the community and in prison across various countries. The map uses three colors to indicate the status of OST availability:

- Red:** OST available in the community
- Black:** OST available in the community and prison
- Grey:** OST not available

The map shows that OST is available in the community in many countries, including Mexico, Colombia, Peru, and several countries in Europe, Africa, and Asia. In some countries, such as the United States, Canada, and Australia, OST is available in both the community and in prison. In many other countries, particularly in South America, Africa, and Asia, OST is not available.

Figure 6. Availability of NSPs in prisons and communities, 2014⁸⁸

⁸⁸ HARM REDUCTION INT'L, THE GLOBAL STATE OF HARM REDUCTION 2014 20 (2014), *available at* <http://www.ihra.net/files/2015/02/16/GSHR2014.pdf>.



41. Availability of condoms in prisons is also extremely low. A 2009 study by the AIDS and Rights Alliance of Southern Africa (ARASA) found that where same-sex conduct was criminalised, only one government distributed condoms to prisoners⁸⁹. In 2014, for the first time, the Global State of Harm Reduction Report attempted to gather information on condom provision in prisons, and found that worryingly few countries or territories supply condoms to those incarcerated, despite the low cost and the relative ease with which condom distribution programmes can be implemented. South Africa is a notable exception, providing condoms to inmates.⁹⁰ Coupled with the lack of needle and syringe services for people who inject drugs, there is an increased need to amend the lack of health-based approaches in the prison setting⁹¹.

Women, transgender people, and young people are particularly vulnerable, while prisoners in general experience high levels of HIV-related stigma, discrimination and other rights violations

42. Women represent a minority of the prison population (5-10%)⁹² with 700,000 women and girls held in penal institutions throughout the world⁹³. In some settings, HIV prevalence is higher among women in prisons than among male prisoners and much higher than among women in the general population. For example, in Moldova in 2005, HIV prevalence among female prisoners was 9.6% compared with 1.5–5% among male prisoners at and <0.5% among women in the general population⁹⁴.

⁸⁹ AIDS AND RIGHTS ALLIANCE OF SOUTHERN AFRICA, HIV/ AIDS AND HUMAN RIGHTS IN SOUTHERN AFRICA (2009), available at: http://www.safaids.net/files/ARASA_Human_rights_report_2009.pdf.

⁹⁰ DEP'T OF CORRECTIONAL SERV. VOTE 21, REPUBLIC OF SOUTH AFRICA, ANNUAL REPORT 2013/2014, available at <http://www.dcs.gov.za/docs/2015%20doc/DCS%20Annual%20Report%202013-14.pdf>.

⁹¹ HARM REDUCTION INT'L, THE GLOBAL STATE OF HARM REDUCTION 2014 20 (2014), available at <http://www.ihra.net/files/2015/02/16/GSHR2014.pdf>.

⁹² INT'L CTR. FOR PRISON STUD., WORLD PRISON POPULATION LIST (2013), available at http://www.prisonstudies.org/sites/default/files/resources/downloads/wppl_10.pdf.

⁹³ INT'L CTR. FOR PRISON STUD., WORLD FEMALE PRISONMENT LIST, available at http://www.prisonstudies.org/sites/default/files/resources/downloads/world_female_imprisonment_list_third_edition_0.pdf.

⁹⁴ L. Pintilei, *Harm reduction in prisons of Republic of Moldova, Presentation at HIV/AIDS in Prisons in Ukraine – From Evidence to Action: Prevention and Care, Treatment, and Support*, Kiev, 1–2 November, 2005.

Given high rates of sexual abuse, including from male guards⁹⁵, and the higher rates of drug use among women prisoners⁹⁶, women's risk of HIV acquisition is therefore higher in the absence of prevention measures. Women in prison also face a particularly high risk of contracting TB due to the higher prevalence of such multiple-risk factors as lower socioeconomic status, higher HIV prevalence, overcrowding, poor ventilation, poor light and poor hygiene⁹⁷. In addition, women may arrive at prison pregnant or become pregnant while in prison. Some women are accompanied by their young children, give birth or are nursing while in prison⁹⁸.

43. HIV risk behaviours are common among adolescents living in prisons. Sexually transmitted infections and HIV are prevalent among detained youths⁹⁹. According to a study in Pakistan, while adolescents living in prisons have generally knowledgeable regarding modes of HIV transmission and the effectiveness of condoms use in preventing HIV/STI transmission, condom use among imprisoned adolescents is quite low¹⁰⁰.
44. Transgender people are also at high risk of abuse in prisons, jails, and juvenile detention¹⁰¹. In most countries, transgender people lack legal recognition and, when incarcerated, are placed in cells on the basis of their biological sex or identity documents, in situations of increased likelihood of abuse and transphobia, or sometimes in solitary confinement, which has been shown to have devastating effects on mental health¹⁰². The USA Bureau of Justice Statistics indicate that in prisons and jails in the USA in 2011-12, transgender prisoners were victimized at rates nearly 10 times those for prisoners in general (39.9% reported sexual assault or abuse in the last year by either another prisoner or staff in prisons, compared to 4% general prison population reports, and 26.8% in jails, compared to 3.2%)¹⁰³.
45. Prisoners and former prisoners encounter a wide range of violations of human rights and high levels of stigma and discrimination. In Europe and Central Asia, seven countries report mandatory HIV testing in prisons: two EU/EEA countries (Cyprus

⁹⁵ HOWARD LEAGUE FOR PENAL REFORM, COMMISSION ON SEX IN PRISON, WOMEN IN PRISON: COERCIVE AND CONSENSUAL SEX BRIEFING PAPER 2 (2014), available at http://www.commissiononsexinprison.org/fileadmin/howard_league/user/pdf/Publications/Women_sex_commission.pdf.

⁹⁶ Stratthdee SA et al., *Substance Use and HIV Among Female Sex Workers and Female Prisoners: Risk Environments and Implications for Prevention, Treatment, and Policies*, J ACQUIR IMMUNE DEFIC SYNDR. (June 2015) 1:69 SUPPL 2:S110-7

⁹⁷ Meredith C. LaVene et al., *Screening for Health Conditions in a County Jail: Differences by Gender*, 9 J. CORRECTIONAL HEALTH CARE 381 (2003).

⁹⁸ UNITED NATIONS OFFICE ON DRUGS AND CRIME & UNAIDS (JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS), WOMEN AND HIV IN PRISON SETTINGS (2008), available at http://www.unodc.org/documents/hiv-aids/Women_in_prisons.pdf.

⁹⁹ Linda A. Teplin et al., *HIV and AIDS Risk Behaviors in Juvenile Detainees: Implications for Public Health Policy*, 93 AM. J. PUBLIC HEALTH 906 (2003).

¹⁰⁰ A. Altaf et al., *High-risk Behaviours Among Juvenile Prison Inmates in Pakistan*, 123 PUBLIC HEALTH 470 (2009).

¹⁰¹ Valerie Jenness et al., Center for Evidence-Based Corrections, *Violence in California Correctional Facilities: An Empirical Examination of Sexual Assault* (2007), available at <http://ucicorrections.seweb.uci.edu/files/2013/06/BulletinVol2Issue2.pdf>.

¹⁰² NAT'L CENTER FOR TRANSGENDER EQUALITY, A BLUEPRINT FOR EQUALITY: PRISON AND DETENTION REFORM (updated July 2015), available at http://www.transequality.org/sites/default/files/docs/resources/NCTE_Blueprint_June2015.pdf.

¹⁰³ ALLEN J. BECK, ET AL., U.S. DEP'T OF JUST., SEXUAL VICTIMIZATION IN PRISONS AND JAILS REPORTED BY INMATES, 2011-12 (Dec. 2014), available at http://www.bjs.gov/content/pub/pdf/svpjri1112_st.pdf (see Supplemental Tables: Prevalence of Sexual Victimization Among Transgender Adult Inmates).

and Slovakia) and five non-EU/EEA countries (Belarus, Bosnia and Herzegovina, Kyrgyzstan, Ukraine and Uzbekistan). There is no evidence of effectiveness of this form of HIV management that implicitly violates agency and freedom of choice¹⁰⁴. In 2014, government respondents stated that HIV-positive prisoners experience moderate or significant stigma and discrimination in 28 of 41 countries that reported to ECDC¹⁰⁵.

GLIMMERS OF HOPE: GOOD PRACTICES IN CLOSING THE GAPS

46. Expanding investment in efforts to reduce HIV transmission and increase coverage of HIV prevention, treatment and care services in prisons is necessary to end the AIDS epidemic in a way that leaves no one behind. Some countries have taken sound public health approaches grounded in evidence, human rights and gender equality consideration at heart. These encouraging examples provide a foundation on which to build during the fragile five-year Fast-Track period, when such evidence-informed and rights-based strategies need to be scaled up worldwide.
47. South Africa is an exceptional example of voluntary HIV testing and antiretroviral treatment provision in the prison system. The most recent data show an increase in prisoners who tested for HIV from 50% in 2012-2013 to 68.7% in 2013-2014; 95.7% of prisoners living with HIV received antiretroviral therapy (15,417 and 16,109, respectively) in 2013-14. Further, 75% of sentenced prisoners with TB were treated and cured.¹⁰⁶
48. Starting with 2008, the French government programme “Ensemble pour une Solidarité Thérapeutique Hospitalière En Réseau” (ESTHER) in prisons in Cote d’Ivoire has applied a holistic approach to prevention, HIV and TB testing, referral to care and case management, as well as scaling up access to antiretroviral therapy and medication for opportunistic infections in three prisons (in Abidjan, Dabou and Sassandra). Training of peer educators among prisoners has contributed to scaling up the number of people seeking such services. In 2013, with funding from the Global Fund to fight AIDS, Tuberculosis and Malaria, the programme has covered six additional prisons and has led to identification and referral to care of more than 10 000 people living with HIV. As of 2014, 14 other prisons have been included in the programme¹⁰⁷.
49. In Spain, OST was first introduced in prisons in 1992, coupled with health education programmes. In 1997-99, needle and syringe programmes were first piloted in four prisons, followed by scale-up of the programme to cover the entire prison system in 2003. As a result, there has been dramatic, consistent decrease in HIV prevalence in

¹⁰⁴ RALF JÜRGENS, WORLD HEALTH ORG, EFFECTIVENESS OF INTERVENTIONS TO ADDRESS HIV IN PRISONS (2007), available at http://whqlibdoc.who.int/publications/2007/9789241596190_eng.pdf?ua=1. The WHO 2014 Consolidated Key Populations Guidelines indicate that no new evidence was found that would change the recommendations made in the 2007 guidelines.

¹⁰⁵ EUR. CTR. FOR DISEASE PREVENTION & CONTROL, MONITORING IMPLEMENTATION OF THE DUBLIN DECLARATION ON PARTNERSHIP TO FIGHT HIV/AIDS IN EUROPE AND CENTRAL ASIA: 2014 PROGRESS REPORT, ECDC SPECIAL REPORT, THEMATIC REPORT: PRISONERS (2013), available at <http://ecdc.europa.eu/en/publications/Publications/dublin-declaration-prisoners-2014.pdf>.

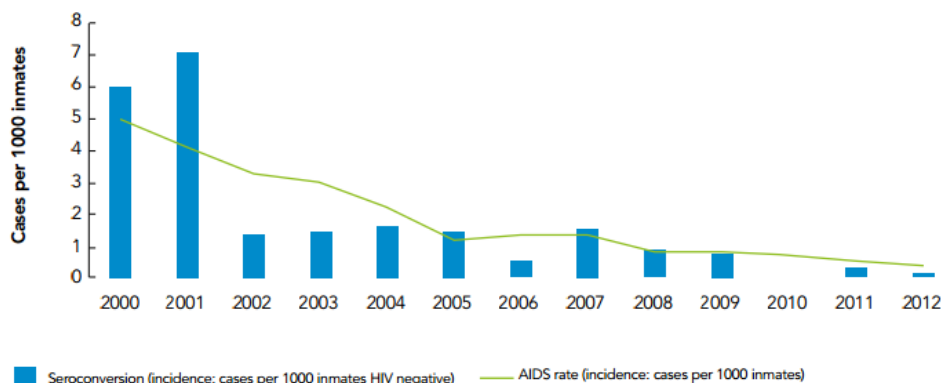
¹⁰⁶ DEP’T OF CORRECTIONAL SERV. VOTE 21, REPUBLIC OF S. AFR., ANNUAL REPORT 2013/2014, available at <http://www.dcs.gov.za/docs/2015%20doc/DCS%20Annual%20Report%202013-14.pdf>.

¹⁰⁷ Cote d’Ivoire, ESTHER, <http://www.esther.fr/nos-actions-dans-le-monde/cotedivoire>.

prisons, from 24% in 1992 to 5.8% in 2014. Incidence data also indicate that the comprehensive harm reduction approach in Spanish prisons is yielding results¹⁰⁸.

Figure 7. HIV incidence rates in prisons, 2000-2012 (Spain)

Harm reduction programmes in Spain help keep HIV incidence and AIDS rates low



Source: T. Hernandez-Fernandez, JM Arroyo-Cobo, "Results of the Spanish experience: a comprehensive approach to HIV and HCV in prisons," National Plan on AIDS, Health Department, Social and Equality Policy, Rev Esp Sanid Penit 2010.

50. The Republic of Moldova remains one of the few countries in the world where comprehensive packages of services are available in prisons. HIV prevalence in prisons has declined from 4.2% 2007 to 1.6% in 2013. Deaths amongst people living with HIV in prisons has been cut by nearly two-thirds, from 23% (2007) to 8.6% in (2013). Prevalence of HCV decreased from 21% (2007) to 8.6% (2012). The needle and syringe programme in Moldova was initially piloted in one prison and gradually extended to 13 prisons in 2014, with the average number of syringes distributed annually at 90 000. OST is also available in 13 prisons. Efforts are being invested in scaling up access to needle and syringe programmes and OST in prisons located on the territory of the self-proclaimed Transnistria (left bank of Nistru river)¹⁰⁹.
51. HIV prevalence among people in prison in the Kyrgyz Republic is about 45 times the prevalence in the general population. Confronting this situation, the country has had needle and syringe programmes in prison since 2002 and OST since 2008. OST is available to all persons in prison, including women, and the needle and syringe programme is available in 15 sites. The number of OST patients in prisons in the Kyrgyz Republic has increased from 65 in 2008 to 323 in 2014¹¹⁰.
52. The Islamic Republic of Iran has a concentrated HIV epidemic among PWID. HIV prevalence in the general population is less than 1%, but the HIV prevalence among prisoners is estimated at 2%. Iran's National Strategic Plan for HIV/AIDS for 2015-2018 has identified goals related to prisons, including OST for at least 40% of PWID who are in prison, and condoms in rooms used for conjugal visits in all prisons. The hallmark OST programme in prisons expanded rapidly from a few hundred patients before 2004 to over 41 000 in 164 centers in 2014. The rapid scale up of OST

¹⁰⁸ MINISTERIO DE SANIDAD, SERVICIOS SOCIALES ET IGUALDAD, SPAIN PROGRESS REPORT (2014), available at http://www.unaids.org/sites/default/files/country/documents/ESP_narrative_report_2014.pdf.

¹⁰⁹ Country Report to the Thematic Segment on "Halving HIV Transmission Among People Who Inject Drugs" at the 35th Meeting of the UNAIDS Programme Coordinating Board (Dec. 9–11, 2014).

¹¹⁰ Kyrgyz Republic Presentation, UNODC Global Consultation on HIV Prevention, Treatment, Care and Support in Prison Settings (Oct. 16 –17, 2014), Vienna, Austria.

coverage and the declining HIV incidence trend from 3.24 in early 2000s to 1.01 in 2012 indicate that the methadone maintenance programme is effective¹¹¹.

53. In Nepal, in 2015, the relevant government authorities, in coordination with national and international partners, developed standard operating procedures (SOP) to support the implementation of the stakeholders' decision to scale up HIV prevention, treatment and care services in prison settings and to revise and update the related policies. This SOP addresses the vulnerability of the prison populations to HIV & STI by adopting the 15 key interventions of the comprehensive package including OST, needle and syringe programmes and condoms¹¹².
54. On July 1, 2001, Portugal decriminalised the use of illicit drugs and the possession of small amounts to drugs for personal use. Drug trafficking continues to be a criminal offence. Rather than prison or other criminal penalties, as earlier laws mandated, people found to be in possession of or using drugs appear before a panel of a psychologist, a social worker and a legal adviser. The panel may impose sanctions ranging from fines to community service and suspension of professional licences. For those who are dependent on drugs, the panel may forego a sanction and instead order the person to attend an educational programme or receive treatment¹¹³. The number of people on methadone and buprenorphine for drug dependency rose to 14 877 from 6 040 after decriminalisation—treatment funded with the money Portugal saves on police and prisons¹¹⁴. Portugal now reports one of the lowest rates of lifetime marijuana use in the European Union: 8.2%, compared with 25% in the EU generally. Data also shows a drop in drug use by teens; lifetime heroin use in 16- to 18-year-olds dropped from 2.5% to 1.8%. New HIV infections among PWID fell by 17% from 1999 to 2003, while fewer people died from causes related to drug use¹¹⁵.
55. Evidence shows that HIV services in prisons can be effective, and that follow-up after release as well as reintegration efforts are imperative. For example, a systematic review of prison-based OST in European prisons found that such programmes provided an opportunity to recruit problem opioid users into treatment, have reduced illicit opioid use and sharing of injection equipment in prison and potentially minimise overdose risks on release. Where liaison with community-based programmes exists, prison treatment facilitates continuity of treatment and longer-term health benefits¹¹⁶.
56. Actions taken by various actors in many countries and across regions have yielded important results. Where health professionals on both sides of the prison walls work

¹¹¹ *Islamic Republic of Iran Presentation*, UNODC Global Consultation on HIV Prevention, Treatment, Care and Support in Prison Settings (Oct. 16 –17, 2014), Vienna, Austria.

¹¹² Standard Operating Procedures (SOP) for HIV Prevention, Treatment, Care and Support in Prison Setting in Nepal, National Centre for AIDS and STD Control, Nepal 2015.

¹¹³ GLOBAL COMMISSION ON HIV AND THE LAW, RISKS, RIGHTS & HEALTH (July 2012), available at <http://www.hivlawcommission.org/resources/report/FinalReport-Risks,Rights&Health-EN.pdf>.

¹¹⁴ GLEN GREENWALD, CATO INST., DRUG DECRIMINALIZATION IN PORTUGAL: LESSONS FOR CREATING FAIR AND SUCCESSFUL DRUG POLICIES 11–12 (2009), available at http://www.cato.org/pubs/wtpapers/greenwald_whitepaper.pdf; U.N. Secretary-General, *United to End AIDS: Achieving the Targets of the 2011 Political Declaration*, U.N. Doc. A/66/757 (Apr. 2, 2012), available at http://www.unaids.org/sites/default/files/media_asset/20120402_UNGA_A-66-757_en.pdf.

¹¹⁵ Caitlin Elizabeth Hughes & Alex Stevens, *What Can We Learn from the Portuguese Decriminalisation of Illicit Drugs?*, BRIT. J. CRIMINOLOGY (2010), available at <http://bjc.oxfordjournals.org/content/early/2010/07/21/bjc.azq038>; GLEN GREENWALD, CATO INST., DRUG DECRIMINALIZATION IN PORTUGAL: LESSONS FOR CREATING FAIR AND SUCCESSFUL DRUG POLICIES 11–12 (2009), available at http://www.cato.org/pubs/wtpapers/greenwald_whitepaper.pdf.

¹¹⁶ See generally Dagmar Hedrich, et al., *The Effectiveness of Opioid Maintenance Treatment in Prison Settings: A Systematic Review*, 107 ADDICTION 501 (2012).

together, HIV, hepatitis, TB and all other aspects of physical and mental health are handled holistically. Experience also shows it is pivotal to foster and strengthen collaboration, coordination and integration among all stakeholders, including ministries of health and other ministries with responsibilities in prisons, as well as community-based service providers.

CONCLUSIONS AND RECOMMENDATIONS

57. The SDGs' equality focus brings new opportunities to strengthen national and subnational actions for equitable access of people living in prisons to tailored HIV prevention, treatment and care services (in line with SDG 3) that are gender-responsive (in line with SDG 5), reduce inequalities (in line with SDG 10), and support the ability of people in prisons to know, assert and claim their rights as well as to seek and obtain redress for human rights violations (in line with SDG 16).
58. As provided for in the UNAIDS Strategy 2016-2021: On the Fast-Track to end AIDS, stakeholders should take intensified actions towards increased country-level impact to ensure that the AIDS epidemic is ended as a public health threat by 2030, leaving no one behind, in line with the 2030 Agenda for Sustainable Development. Pillars of the new UNAIDS Strategy include concerted action to reduce inequality in access to services and to ensure healthy lives and well-being for all. To achieve the goals set forth in the new UNAIDS Strategy and to fulfil the vision reflected therein, it is essential that effective, rights-based and evidence-informed measures for HIV prevention, treatment, care and support be extended to all people in prisons and other closed settings. To this end, the following recommendations have been formulated:
- a. scale up quality and comprehensive HIV services in prisons and other closed settings to reach all people in prisons and closed settings, with a particular focus on key populations, women, young people and other most vulnerable;
 - b. enhance coordinated actions by governments, communities and civil society, international funders, the UNAIDS Joint Programme and other relevant partners within and across countries, to improve availability, accessibility, acceptability and quality of HIV prevention, treatment and care services;
 - c. take joint action to reduce overbroad criminalization of drug use, strengthen due process, and reduce imprisonment of key populations as part of broader alternatives to incarceration and criminal justice reform;
 - d. align efforts to develop and implement prison reform initiatives addressing the underlying living and working conditions, hand in hand with the implementation of the comprehensive package of HIV prevention, treatment and care services in prisons; and
 - e. strengthen accountability and improve the generation and availability of strategic information to guide actions, including through the use of the Global AIDS Progress Reporting as a mechanism for countries to report on prisons-related data.

DECISION POINTS

The Programme Coordinating Board is invited to:

59. *Take note* of the background note;
60. *Request* the Joint Programme to support Member States and civil society in accelerating efforts to increase access to HIV prevention, treatment and care services for people in prisons and other closed settings, including for people living with HIV and other key populations, in line with the UNAIDS Strategy 2016-2021: On the Fast-Track to end AIDS, and report on concrete actions taken at a future meeting of the Programme Coordinating Board;
61. *Encourage* the Joint Programme and relevant partners to address issues related to HIV and health in prisons and other closed settings by building upon the momentum and fully engaging in the 2016 Special Session of the UNGASS on the World Drug Problem and in the 2016 High Level Meeting on HIV.

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