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Policy Brief 2

The right to health for inmates in Zimbabwe's prisons

Executive Summary

Much research work has been conducted around the rights of prisoners and detainees the world over, Zimbabwe is no exception. On this basis, it is important that compliance to national, regional, and international standards on the rights afforded to prisoners are not only observed but also respected, protected and fulfilled. The Research and Advocacy Unit (RAU) base this policy brief on findings from a research that was conducted in 2018, which looked into the rights of prisoners in Zimbabwe and the Government of Zimbabwe's obligation to respect and attain the highest standards for persons regarded as prisoners. There are a number of reasons why prisoners should have the right to health. First, *Estelle v Gamble*¹ held that deprivation of health care to a prisoner constitutes cruel and unusual punishment. Second, provision of quality health care by the State is the only available option that a prisoner has. Third, provision of health care improves the health of a prisoner which in turn makes it possible for the prisoner to be reintegrated into society after serving their prison term. Finally, it helps contain the spread of diseases in prison. The right to health applies to everyone including prison inmates. Put differently, people who are in prison have the same right to health care as citizens in the outside community.

Problem description

A baseline survey conducted by Research and Advocacy Unity (RAU) reveals that Zimbabwe's prisons are still in a critical state and pose a threat to the health of the inmates. One of the biggest challenges or threats to the health of the inmates is the physical conditions of the prisons themselves. The prison conditions are much worse for prisoners on death row. They spend many hours in solitary confinement in small cells, with poor ventilation and lighting. With respect to

¹ Text of *Estelle v. Gamble*, [429 U.S.](#) 97



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the minimum standards to be met by physical conditions of prisons, Rule 13 of the United Nations Mandela Rules states that:²

“All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.”

Hence, the State has an obligation to ensure that the physical conditions of prisons are habitable and do not pose a threat to the health of inmates. It has obligations to protect and promote the right to the highest attainable standard of physical and mental health for prison inmates. More so, paragraph 12 of the United Nations Committee on Economic, Social and Cultural Rights’ General Comment 14 underscores that:³

*“The right to health must have available, accessible, acceptable and quality of care. **Availability** refers to facilities, goods and services in the health system. **Accessibility** has four facets; namely, accessibility without discrimination, physical accessibility, economic accessibility and accessibility of health related information. **Acceptability** refers to respect for medical ethics and cultural sensitivities. **Quality of care** refers to health facilities, goods, and services of good quality, as well as and scientifically and medically appropriate.”*

Therefore, prison administrations have a responsibility to ensure that inmates receive proper health care and that prison conditions promote the wellbeing of both prisoners and prison staff. Health care staff must deal with inmates primarily as patients and not prisoners. However, even

² UN General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)* : resolution / adopted by the General Assembly, 8 January 2016, A/RES/70/175, available at: <https://www.refworld.org/docid/5698a3a44.html>

³ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)*, 11 August 2000, E/C.12/2000/4, available at: <https://www.refworld.org/docid/4538838d0.html>



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though most prisons in Zimbabwe provide health care services there is inadequate health care personnel, independent clinics, secondary care, scarcity of medication,

Additionally, the RAU survey summarises the plight related to health as follows:

“The general conditions of the prisons are not conducive for the maintenance of good health. The overcrowding contributes to the deterioration of the physical conditions of prison premises and to the quick spread of communicable diseases. Poor sanitary conditions contribute to disease, including diarrhoea, measles and other related illnesses. Poor diet and unhygienic facilities do not enhance the lives of those living with HIV and AIDS, Cancer, Sugar diabetes to mention a few. The most common disease that inmates who are HIV positive succumb to is Tuberculosis (TB). TB is also the most common opportunistic infection among people living with HIV in Africa. The overcrowding, poor ventilation and poor prevention practices dramatically increase the risks of TB transmission in prisons. The combination of the high prevalence of both TB and HIV in prisons is responsible for a high mortality rates amongst prisoners.”

Although medication, water and nutrition are a basic requirement for all prisoners, the health needs of inmates sometimes vary with the type of inmate. For instance, female inmates require regular check-ups for diseases such as cervical cancer, undergarments, sanitary wear and appropriate means of disposal. Pregnant and lactating mothers require a well-balanced diet, exercise as well as prenatal and postnatal care. For inmates living with HIV/ AIDS, even though the supply of antiretroviral drugs in prisons has been efficient and adequate, viral load services must also be provided for effective results. Medication for illnesses such as cancer, asthma and chronic hypertension are scarce therefore, there is need to for the State to ensure that they are distributed to prisons. There is also need for regular check-ups for prisoners to guard against diseases such as lung and prostate cancer, sugar diabetes, high blood pressure and other diseases which can go undetected. In addition to the regular check-ups the inmates require knowledge on such disease as they also have the responsibility to take care of their health.



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Recommendations

The following is therefore recommended:

- The legislative amendments to the Prisons and Correctional Services Act should ensure that the right to the health of the inmates is adequately protected and clearly stipulated.
- The State ought to urgently undertake measures to protect the health of the inmates; such measures should be legislative and programmatic in nature.
- The State must also prioritise the provision of health care for inmates with mental illness this includes ensuring that psychologists and psychiatrists proportional to the number of inmates are deployed to prisons.
- There is need to incorporate prison health care under the Ministry of Health rather than the Ministry of Justice. Such a move will bring the prison health service up to the standards of the community health care.
- The State should provide different specialists who provide various health care services such as gynecologist for all women inmates as well as pediatric care for infants.
- Viral load machines should be put in prisons so as to monitor the viral load of people living with HIV/AIDS. Cancer screening machines need also to be placed in prisons so that inmates get screenings regularly.
- There is also the need to ensure that there is proper ventilation in prison cells to minimize the spread of airborne diseases such as Tuberculosis.