



United Nations
Educational, Scientific and
Cultural Organization

Prisoners with Disability

**An Orientation Manual
for Prison Staff**



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Prisoners with Disability – An Orientation Manual for Prison Staff

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Contents

INTRODUCTION	1
CRPD – Convention on the Rights of Persons with Disabilities	1
Rights of Prisoners with Disabilities	1
PRISONERS WITH PHYSICAL DISABILITIES	3
Definition	4
1. Overview	4
2. Special needs and challenges	4
3. International standards	5
4. Responding to the needs of prisoners with disabilities	6
PRISONERS WITH MENTAL HEALTH CARE NEEDS	10
Definition of mental disabilities	10
1. Overview	10
2. Special needs and challenges	11
3. International standards	14
4. Responding to the needs of prisoners with mental health challenges	14
LIST OF RESOURCE MATERIAL	24

Introduction

CRPD – Convention on the Rights of Persons with Disabilities

The rights enumerated in the Universal Declaration of Human Rights, in a perfect world, would be enough to protect everyone. But in practice certain groups, such as women, children and refugees have fared far worse than other groups and international conventions are in place to protect and promote the human rights of these groups. Similarly, the 650 million people in the world living with disabilities—about 10 per cent of the world’s population—lack the opportunities of the mainstream population. They encounter a myriad of physical and social obstacles like education, jobs, access to information, health care, mobility and social acceptance etc.

The UN General Assembly adopted the Convention on the Rights of Persons with Disabilities (CRPD) in December 2006 after ratification from 20 member countries. Throughout human history, persons with disabilities have been viewed as individuals who require societal protection and evoke sympathy rather than respect. This convention is a major step toward changing the perception of disability and ensures that societies recognize that all people must be provided with the opportunities to live life to their fullest potential, whatever that may be.

The purpose of the convention is to promote, protect and ensure the full and equal enjoyment of all human rights by persons with disabilities. It covers a number of key areas such as accessibility, personal mobility, health, education, employment, habilitation and rehabilitation, participation in political life, and equality and non-discrimination. The convention marks a shift in thinking about disability from a social welfare concern, to a human rights issue, which acknowledges that societal barriers and prejudices are themselves disabling.

Out of all 48 articles of the CPRD, some of the articles relevant to this manual are article 5 on equality and non-discrimination, article 6 on women with disabilities, article 7 on children with disabilities, article 8 on awareness raising, article 11 on situation of risk and humanitarian emergencies, article 12 on equal recognition before the law, article 13 on access to justice, article 14 on liberty and security of a person, article 15 on freedom from torture or cruel, inhuman or degrading treatment or punishment and article 16 on freedom from exploitation, violence and abuse.

Rights of Prisoners with Disabilities

All prisoners are vulnerable to a certain degree. When the liberty of a group of individuals is restricted and they are placed under the authority of another group of people, and when this takes place in an environment that is to a large extent closed to public scrutiny, the abuse of power has proven to be widespread. Even where no

abuse exists, prison conditions themselves in a large majority of countries worldwide are harmful to the physical and mental well-being of prisoners.

However, there are certain groups that are in a particularly vulnerable position in prisons and who therefore need additional care and protection. Some people may experience increased suffering due to inadequate facilities and lack of specialist care available to address their special needs in prison. The prison environment itself will exacerbate their existing problems. These include prisoners with mental health care needs, prisoners with disabilities and older prisoners.

Contrary to the general perception, these groups do not constitute a small part of the prison population, and their proportion in prisons has been growing rapidly in recent years. Foreign prisoners, for example, currently make up over 20 per cent of the prison population in European Union countries and a few countries of South Asia and the Middle East. According to studies undertaken in a number of countries, 50 to 80 per cent of prisoners have some form of mental disability; racial and ethnic minorities represent over 50 per cent of the prison population in some jurisdictions.

In many cases, prisoners may belong to more than one vulnerable group, which translates into a multiplicity of special needs and increased vulnerability. Their numbers are likely to rise further in the coming years, adding pressure on the resources of prison authorities, unless criminal policies are rationalized.

The high proportion of vulnerable prisoners worldwide means that their special needs cannot be considered as a marginalized component of prison management policies. Comprehensive management strategies need to be developed, and mechanisms put in place to ensure that they are implemented, to guarantee that prisoners with special needs are treated in accordance with the requirements of international human rights standards, while their prospects of social reintegration are enhanced.

United Nations Convention on the Rights of Persons with Disabilities (CRPD)

Adopted: 13 December 2006
Enforced: 03 May 2008

Pakistan signed: 25 September 2008
Pakistan ratified: 05 July 2011

CRPD has 50 articles out of which the following are most relevant to the prisoners with disabilities

Prisoners with Physical Disabilities

Article 5	Equality and non-discrimination This article recognizes all persons are equal before and under the law and prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
Article 6	Women with disabilities Women and girls with disabilities are subject to multiple discrimination, in this regard shall take measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms.
Article 7	Children with disabilities Necessary measures should be taken to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
Article 8	Awareness raising Immediate, effective and appropriate measures be taken to raise awareness throughout society regarding persons with disabilities to foster respect for the rights and dignity of persons with disabilities to combat stereotypes, prejudices and harmful practices.
Article 11	Situation of risk and humanitarian emergencies All necessary measures shall be taken to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters
Article 12	Equal recognition before the law Recognizes that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
Article 13	Access to justice Deals to ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages
Article 14	Liberty and security of a person Persons with disabilities will enjoy the right to liberty and security and are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law.
Article 15	Freedom from torture or cruel Deals with Person with disabilities shall not be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
Article 16	Freedom from exploitation, violence and abuse Appropriate legislative, administrative, social, educational measures shall be taken to protect persons with disabilities from all forms of exploitation, violence and abuse, including their gender-based aspects.

Definition

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments, which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Examples are hearing disability, visual disability, learning disabilities, autism, loss of smell or taste, asthma, arthritis, cancer, difficulty with walking, handling or carrying heavy things etc.

1. Overview

Prisoners with disabilities comprise a particularly vulnerable group, whose situation and special needs have not been the focus of much study to date. Although figures relating to the number of prisoners with disabilities worldwide are scarce, some studies indicate that, due to the growing prison population in most countries and the significant increase of older prisoners in some, there is also an increasing number of people with disabilities in prisons.

The difficulties people with disabilities face in society are magnified in prisons, given the nature of the closed and restricted environment and violence resulting from overcrowding, lack of proper prisoner differentiation and supervision. Prison overcrowding accelerates the disabling process, with the neglect, psychological stress and lack of adequate medical care. Thus imprisonment represents a disproportionately harsh punishment for prisoners with disabilities, often worsening their situation and placing a significant burden on the prison system's resources.

2. Special needs and challenges

The special needs of prisoners with disabilities naturally depend on the nature of their disability, though there are some key concerns that are common to all.

2.1 Access to justice

Prisoners with disabilities face disadvantages at various stages of the criminal justice system. They may be indirectly discriminated against in their access to justice, if the special assistance they need is not provided. In the absence of appropriate training and sensitization, law enforcement officials may demonstrate lack of understanding or even be actively hostile in their treatment of individuals with disabilities.

Persons with sensory disabilities, and particularly those who are affected by multiple disabilities, will face particular difficulties in understanding the charges against them, unless provided in a mode that is accessible to them. They will also have problems in communication during the criminal justice process. Thus having the assistance of qualified legal counsel and appropriate support to cater for their special needs are crucial to ensure that persons with disabilities have access to justice on an equal basis as others.

2.2 Protection needs

Due to their vulnerable physical condition, prisoners with disabilities are easy targets for abuse and violence from other prisoners and prison staff. Others may, for example, confiscate from prisoner's their wheelchairs, crutches, braces, hearing aids,

glasses and medications. Prisoners who need special assistance with daily activities, such as eating, dressing and bathing, may be simply ignored. They may be left without meals and forced to urinate on themselves in the absence of bathroom assistance. Prisoners with disabilities may be psychologically abused, for example, by the moving around of furniture in the cell of a visually impaired prisoner or by verbal taunts. Women prisoners with disabilities are at a particularly high risk of manipulation, violence and sexual abuse.

2.3. Discrimination

People with disabilities are liable to face discrimination directly or indirectly throughout their lives, despite legislation in many countries prohibiting such discrimination. The discrimination persons with disabilities face in society are intensified in prison. Prisoners with disabilities encounter difficulties in accessing services, complying with rules and participating in prison activities that do not take account of their special needs. Due to architectural barriers, prisoners with mobility impairments may be unable to access eating areas, sanitary facilities, work, recreation and visiting rooms. Prisoners with visual disabilities cannot read their own mail unassisted or prison rules and regulations, unless they are provided in Braille. Prisoners with a hearing or speaking disability may be denied interpreters, making it impossible for them to participate in various prison activities, including counseling programmes, as well as their own parole and disciplinary hearings.

2.4 Health care

Prisoners with disabilities may have particular health care needs related to their disability, such as physiotherapy, regular eyesight and hearing examinations and occupational therapy, some of which may be difficult to meet in prisons. They also need access to tools and services, such as hearing aids, wheelchairs, canes and orthotics.



3. International standards

The principle of non-discrimination enshrined in the United Nations Standard Minimum Rules should be understood to cover prisoners with disabilities. More specifically the principles contained in the United Nations Convention on the Rights of Persons with Disabilities adopted on 13 December 2006, apply to all persons with disabilities, including those facing criminal prosecution, detainees and prisoners.

4. Responding to the needs of prisoners with disabilities

4.1 Non-custodial measures and sanctions

The social reintegration needs of offenders with disabilities are rarely, if ever, served in prisons and their imprisonment should be avoided as far as possible, taking into account the offence committed and public safety requirements. Prison sentences should be used as a last resort in all cases. This principle should be fundamental in deciding whether to imprison offenders with disabilities, and especially those who have committed non-violent offences, taking into account the level of care they are likely to receive in prisons. The development of suitable non-custodial programmes for those with disabilities, combining treatment where relevant, with supervision in the community, would comprise a more humane and effective way of dealing with such persons' needs.

4.2 Prison management

4.2.1 Management policies and strategies

In order to ensure the equal treatment of prisoners with disabilities and their social reintegration, prison authorities need to take affirmative action. The United Nations Convention on the Rights of Persons with Disabilities can help inform the development of appropriate policies for prisoners with disabilities.

Efforts should include the examination and amendment of existing policies, which put prisoners with disabilities at a disadvantage. Consultation with organizations and services of civil society working with persons with disabilities, and a needs assessment of prisoners with disabilities, should be essential elements of this process.

A prison service policy statement, clearly prohibiting discrimination against prisoners with disabilities and actively promoting equality of treatment should be developed and displayed prominently in all prison establishments.

Data collection and assessments should be undertaken on a regular basis, bearing in mind especially the scarcity of information and record keeping on prisoners with disabilities, to identify shortcomings and good practices, and to improve the situation of prisoners with disabilities.

4.2.2 Staff

The attitude of staff is a key element in ensuring the protection of the human rights of prisoners with disabilities and reducing discrimination in prison.

Where resources allow, the appointment in each prison of a member of staff to act as a contact point for prisoners with disabilities, as well as adviser to the prison management on policy issues and the needs of prisoners with disabilities should be considered.

Staff training needs to emphasize that prisoners with disabilities have the same human rights as all other prisoners and that they should not be treated more harshly, isolated or taunted due to their disability and difficulties arising from their condition. Appropriate techniques of dealing with prisoners with disabilities, when difficulties arise, should be included in staff training e.g. mobility training to help sever visually impaired or blind prisoners.

Staff should be trained to undertake effective supervision of prisoners with disabilities to prevent their abuse and ill-treatment by other prisoners. Staff should also be trained to detect signs of distress in prisoners with disabilities and coordinate with the prison psychologist and medical officer, as relevant, to prevent mental disabilities from arising and worsening.

4.2.3 Access to justice

In order to ensure that persons with disabilities can access justice on an equal basis with others, prisoners with disabilities should have prompt and regular access to legal counsel similar to all other prisoners, from the outset of their detention, and assistance should be provided for their communication with lawyers. Special needs relating to their disability should be provided for during the entire criminal justice process to ensure that they can participate in the procedure on the same basis as others.

4.2.4 Admittance

Prisoners with disabilities should be given an opportunity to declare any disability and provide information about their special needs on entry to prison and they should be provided with information about the prison and prison rules in a format that is understandable to them (e.g. in Braille or audio taped for prisoners who have serious visual impairments and large print for those with lesser visual disabilities). Prisoners should be allowed to keep in their possession any form of aid relevant to their disability, such as wheelchairs and crutches, unless there is a genuinely justifiable security reason not to do so.

4.2.5 Classification, allocation and accommodation

Like all prisoners, prisoners with disabilities should be housed in the minimum security conditions required for their safe and secure custody. Prisoners with disabilities should be allocated to accommodation suitable to their needs. Adaptations to accommodation should be made if necessary to help them cope with their new environment. For example, handrails can be provided in their cells, steps can be painted in bright colours and marked to make them visible for those with visual disabilities; portable ramps can be used to facilitate the access of those using wheelchairs.

4.2.6 Health care

Prisoners with disabilities should have equal access to all health care provided to other prisoners. They also need to have access to the same level of specialist health care e.g. physiotherapy, speech and occupational therapy, treatment for sensory disabilities, as well as access to hearing aids, wheelchairs and crutches etc.



4.2.7 Access to programmes and services

Prison services should take all possible measures to ensure the equal access of prisoners with disabilities to prison activities, including educational and vocational training programmes, counseling and recreation. Cooperation with organizations of civil society should be established to design and run programmes suitable for the needs of prisoners with disabilities. Such cooperation will ease the burden of prison staff, ensure that prisoners with disabilities are given an opportunity to participate in programmes designed for their needs and increase contact between the prisoners and the outside world, which will have a beneficial effect on their mental well-being. Where groups of prisoners with similar disabilities exist, suitable group activities can be organized, with the assistance of outside organizations.

4.2.8 Safety and security

Prisoners with disabilities should not only be held in a safe environment, but they also need to feel safe, so that their mental well-being is protected, like all other prisoners. This may require some small additional measures and considerations, such as conducting the searching of prisoners with disabilities with special sensitivity or informing prisoners with visual disabilities, when approaching them, due to the anxiety this may cause in the coercive and sometimes violent environment of prisons.

Placing prisoners with disabilities in isolation cells can have extremely harmful consequences, due to the psychological distress suffered by this group of prisoners, which is likely to be exacerbated by isolation. Therefore, such punishment should be avoided as far as possible and if unavoidable, only be used as a measure of last resort, and for the shortest possible period of time.

Prisoners with disabilities should be able to defend themselves during disciplinary hearings and all necessary assistance should be provided to ensure that this happens. (For example, sign language interpreting for those with hearing and speaking disabilities).

Prison authorities need to ensure that prisoners with disabilities have equal access to complaints procedures. If they have difficulties making complaints, due to their disability, suitable assistance should be provided.



Prisoners with Mental Health Care Needs

Definition of mental disabilities

The umbrella term mental disability is used to include psychiatric disabilities and intellectual disabilities. Psychiatric disabilities may be major, e.g. schizophrenia; or more minor mental health problems, often referred to as psychosocial problems, e.g. mild anxiety disorders. Intellectual disabilities are defined as “a condition of arrested or incomplete development of the mind characterized by impairment of skills and overall intelligence in areas such as cognition, language, and motor or social abilities”.

The terms mental health care and treatment are used in this section to cover a range of treatment options, including psychosocial support, counseling, speech and occupational therapy, physiotherapy, behavioral therapy, psychiatric and medical treatment, among other appropriate specialized health care services.

1. Overview

A disproportionately large number of prisoners have mental health care needs. Recent research conducted among 23,000 prisoners in 12 western countries concluded that several million prisoners worldwide probably had serious mental disabilities. The World Health Organization (WHO) estimates that as many as 40 per cent of prisoners in Europe suffer from some form of mental disability, and are up to seven times more likely to commit suicide than people outside of prisons. In the United States, 56% of state prisoners, 64% of jail inmates and 45% of federal prisoners reported treatment for or symptoms of major depression, mania or psychotic disorders in 2006. According to research in New South Wales, Australia, 80% of prisoners have a psychiatric disability, compared to 31% of the general population.

The high rate of mental disability among prisoners is related to many interrelated factors. All prisoners are at risk of developing a range of mental disabilities in prisons. WHO and ICRC have specifically identified overcrowding, various forms of violence, enforced solitude or lack of privacy, lack of meaningful activity, isolation from social networks, inadequate health services, especially mental health services, among factors that have a harmful effect on the mental well-being of most prisoners. Prisoners with mental disabilities are ill-equipped to survive in the often brutal and brutalizing environment of prisons, and their condition most often deteriorates in the absence of adequate health care and appropriate psychosocial support. “Police often did not segregate detainees from convicted criminals.

Prisoners with mental illness usually lacked adequate care and were not separated from the general prison population” mentioned in state of human rights in Pakistan 2011. In addition, in a number of jurisdictions there has been an increasingly punitive approach to the treatment of people who do not fit within socially accepted norms. Policies such as mandatory sentencing with harsh penalties for drug offences and restrictions on access to support systems, reflecting a punitive rather than a

rehabilitative approach, has led to the criminalization of persons with mental disabilities.

The Human Rights Commission of Pakistan mentioned in a report the state of human rights 2011 that "Healthcare facilities remained woefully inadequate in prisons... Mental health facilities in prisons across Pakistan were almost non-existent. The Karachi Central Prison where around 3,700 prisoners were detained had one psychiatrist and no medical officer. The Hyderabad Central Jail had one psychiatrist for nearly 1,700 prisoners, the Central Prison in Peshawar had 156 prisoners, two psychiatrists, two psychologists and four nurses, Sukkur prison had 1,022 prisoners with no psychiatrist, but two medical officers, while the Turbat prison had 81 prisoners with no psychiatrist or psychologist, but one medical officer."

The imprisonment of many offenders with mental disabilities could be diverted to appropriate treatment programmes or support services, rather than being sent to prison. Whereas the majority of prisoners with mental disabilities do not present a risk of violent behaviour, the small minority who must be imprisoned, due to the violence of the offence committed and the possible danger they pose to the public, need to receive treatment and services in prison.

2. Special needs and challenges

Prisoners with mental health care needs comprise a particularly vulnerable group in prisons and have a complex set of needs relating to the protection of their human rights, including provision of appropriate mental health care.

2.1 Access to justice

In addition to the factors mentioned above which lead to the increased contact of people with mental health care needs with the criminal justice system, once detained, individuals with mental disabilities are also disadvantaged in their access to justice.

They may not be sufficiently aware of their legal rights, may be unable to gain access to legal counsel without assistance, face stigmatization, discrimination and ill-treatment at the hands of law enforcement officials and even at the hands of some health professionals. Since mental disabilities are prevalent among the poor, due to the economic challenges they face in accessing treatment, as well as underlying determinants of mental health, such as adequate nutrition, sanitation and shelter, among others, defendants with mental health care needs are likely to need free legal aid, which may not be offered. In the absence of qualified legal assistance, they may be coerced into confessing to an offence, much more readily than other prisoners, due to their mental disability. People with intellectual disability are particularly vulnerable. They may incriminate themselves even if they are innocent.

2.2 Prison environment

Prisoners' right to health is a fundamental human right recognized by numerous international instruments. The right to health encompasses the right to proper health care, as well as the underlying right to live in an environment, which does not

generate or exacerbate disease and mental disabilities. Unfortunately the large majority of prison systems worldwide fail to provide an environment that promotes the physical and mental well-being of its inhabitants. In many countries of the world prisoners are accommodated in overcrowded, poorly ventilated and unsanitary prisons, in an atmosphere that is charged with the perceived or real risk of violence and abuse. Such conditions induce stress, depression and anxiety, which may develop into more serious mental disabilities.

Prisoners with existing mental disabilities are at further risk of acute mental harm. They have fewer resources with which to cope in an environment lacking in privacy, often tense and sometimes violent. Depressed, sometimes psychotic and suicidal, they are at increased risk of deteriorating emotionally, with a serious risk of harming themselves or others.

Sometimes prisoners with mental disabilities will be housed separately, in extremely inferior conditions with even more restricted access to food, hygiene and health facilities. In some countries prisoners with mental disabilities will be physically restrained, commonly by chains, on a constant basis.

Research indicates that female prisoners with mental health care needs are at particular risk of abuse, self-harm and deteriorating mental well-being in prisons. Women without any mental health problems prior to imprisonment may develop a range of mental disabilities in prisons, where they do not feel safe, conditions are poor, dormitories overcrowded and staff not trained to deal with their gender-specific psychosocial support requirements.

2.3 Health care

Equivalence of health care is a principle that applies to all prisoners. However, this right is rarely realized in prisons, where usually health care services, and especially the provision of mental health care, are extremely inadequate. Prison health services are far too often severely under-funded and understaffed and frequently rely solely on medications to manage the symptoms of mental disabilities, rather than providing the type of inter-disciplinary care and supervision that the treatment of mental disabilities requires.

Adequate screening and monitoring of mental disabilities is key to successful health treatment. Nevertheless in most systems initial screening, follow-up through the system during transfers and establishment of individual treatment plans are either inadequate or non-existent. Prisoners with existing mental disabilities are therefore not identified on entry and left untreated in an environment that is particularly harmful to their mental well-being.

Effective mental health care services, providing individualized care, require the expertise of a range of mental health professionals, including psychiatrists, psychologists, counselors, nurses and occupational therapists. In reality, specialist staff employed in prisons receives low salaries, have a low status and work in an unpleasant working environment with inadequate support. Therefore in most prison

systems there is a shortage of medical staff. Specialist staff shortages are usually accompanied by the difficulties of access to medical health staff by patients, who may need to complete written requests to see a doctor. Prisoners with mental disabilities may not be in a position to fill in such requests without assistance and when they do, it may take days or weeks before a medical consultation is actually granted.

Prisoners with intellectual disabilities are likely to be in need of special health care services, such as behavioural therapy, speech therapy, occupational therapy and physiotherapy. Studies have shown that people with intellectual disabilities face a higher prevalence of psychosocial or psychiatric disabilities than the general population and they will therefore need greater access to appropriate treatment.

2.4 Discrimination and stigmatization

The discrimination and stigmatization encountered by people with mental disabilities from the general public are magnified in the closed environment of prisons. Other prisoners are often unwilling to associate with prisoners with mental disabilities, due to similar misconceptions and fears most people in society have about them. This can lead to the isolation of such prisoners, leading to the further deterioration of their mental health and further stigmatization. The same attitudes are often shared by prison staff, hindering a positive and constructive relationship to be formed between staff and prisoners with mental health care needs, thus perpetuating staff's lack of understanding of the situation of such prisoners. It is also possible that health care staff themselves may discriminate against those patients with mental disabilities as they may be perceived to be more disruptive, too demanding of time and attention, or because they may be unable to easily communicate their problems and their needs.

2.5 Safety and security

Persons with mental disabilities are at risk of human rights violations in prisons. Prisoners with mental disabilities are vulnerable to abuse, sexual assault and violence by other prisoners. They have difficulty in understanding the prison code, may be intimidated by staff into acting as informers or forced by other prisoners into performing acts that are harmful to them or that get them into trouble.

Prisoners with mental disabilities may find it extremely difficult to comply with prison rules. Some may demonstrate disruptive behaviour, aggression and violence. Others will simply refuse to follow routine orders. Disciplinary violations in prisons are subject to punishment, often in administrative segregation / isolation units. As a result, prisoners with mental disabilities, who break the rules, will often be placed in these units, which is extremely harmful to their mental wellbeing, sometimes leading to self-harm and suicide. As has already been stated, in many jurisdictions the main way of managing prisoners with mental disabilities who are seen to be disruptive or who break the rules, is to physically restrain them for prolonged periods.

2.6 Risk of suicide and self-harm

International studies indicate that suicide rates in prisons significantly exceed those in the general population. Long-term sentences, single-cell use, mental disabilities, substance abuse and a history of suicidal tendencies are associated with an increased suicide risk. Although suicides and incidents of self-harm in prison settings are not only associated with mental disabilities, suicide, and in most cases also self-harm, are clearly associated with depression, at least, if not with more serious psychosocial or psychiatric disabilities.

Self-harm in prisons can also be associated with drug dependence, a history of alcoholism and with being a victim of violence, all of which require therapeutic responses.

2.7 Multiple needs

All of the groups covered in this manual are at risk of developing mental health care needs in prisons, due to discrimination and abuse they may face, to isolation resulting from their nationality, race, ethnicity or descent, due to terminal illness, to age or to facing the death penalty. Women who are admitted to prison are more likely than men to suffer from mental disabilities, drug and alcohol addiction, often as a result of domestic violence, physical and sexual abuse. Separation from their families and the community due to imprisonment has a particularly harmful effect on women, which may lead to anxiety, depression and the development of more serious mental disabilities.

3. International standards

As given in section 1.

4. Responding to the needs of prisoners with mental health challenges

4.1 Health care policies and legislation

The immense challenges relating to the provision of mental health care, in prisons, cannot be resolved by prison administrations and prison health care services alone.

- Public health policies and strategies must include the needs of prisoners and adequate funding must be provided to prison health services to meet the needs of prisoners with mental (and physical) health care requirements.
- Prison and community health services should work in cooperation and be integrated as far as possible in order to improve prospects of equivalence of care in prisons and continuum of care both on arrivals in prison and in the community following release.
- Mental health legislation needs to be adopted to protect the rights of people with mental disabilities, including prisoners. The development of legal provisions that address the needs of prisoners with mental health care needs is a first step towards ensuring that their rights are protected, including the right to quality

treatment and care, to refuse treatment, to appeal decisions of treatment without consent, to confidentiality, to protection from discrimination and violence, and to protection from torture and other cruel, inhuman and degrading treatment, among others. Legislation should provide procedural protections to prisoners with mental disabilities within the criminal justice system, equivalent to those granted other prisoners.

4.2 Diversion, non-custodial measures and sanctions

Principles for the protection of persons with mental illness and the improvement of mental health care make clear that persons with mental disabilities should have the right to be treated and cared for, as far as possible, in the community in which they live. WHO recommends that mental health services be based in the community and integrated as far as possible to general health services, in accordance with the vital principle of the least restrictive environment. In this context, there is a need to recognize that imprisonment has a particularly harmful effect on persons with mental disabilities. The objectives of social reintegration and the prevention of re-offending can be better achieved with treatment and care, rather than punitive measures in the case of most offenders with mental disabilities, and especially those who have committed non-violent offences.

- Where possible, individuals with mental disabilities should be diverted from the criminal justice system at the first point of contact with law enforcement officers and those with severe mental disabilities should never be held in prisons.
- The lack of public mental health services alone should never be used to justify the imprisonment of people with mental disabilities, and should be strictly prohibited by law.
- Diversion measures may necessitate the introduction of new legislation and procedures, as well as the training of law enforcement officials to recognize mental disabilities, in order to seek the assistance of mental health professionals at the first point of contact with the criminal justice system.
- Sentencing alternatives should also be introduced for offenders with mental disabilities, who have committed more serious offences. Such sentences should incorporate comprehensive medical care in a suitable facility and supervision. In general it is preferable for offenders who present a danger to the public to receive treatment in secure medical facilities, rather than in prison settings which will worsen their condition.

4.3 Prison management

4.3.1 Management policies and strategies

The promotion of mental health, as well as physical health and social well-being should comprise key elements of prison management and health care policies. The development of comprehensive policies and strategies aiming to protect the mental well-being of all prisoners and to ensure that those with mental disabilities have

timely access to suitable treatment is essential to the effective management of mental health care in prisons.

- Protecting the mental well-being of all prisoners: Improving conditions, providing a safe and positive prison environment: Policies should ensure that prison conditions and services are designed to protect and promote the mental well-being of all prisoners. They should recognize that providing the underlying determinants of health, such as adequate space, nutrition, clean drinking water, sanitation, heating, fresh air, natural and artificial light, are key to the protection of mental and physical health. The provision of purposeful activities and mental stimulation, as well as contact with the outside world is also vital in this context. Policies and strategies to address violence (including physical, sexual and psychological violence and bullying) must also be put in place. In addition, prison management policies should ensure that a careful prisoner differentiation according to risk category is undertaken on entry to prison. Issues relating to staff recruitment and training and the creation of a positive atmosphere in prison, are also key elements of mental health policies that aim to prevent mental disabilities from developing or worsening.
- Managing the treatment of prisoners with mental health care needs: The care of prisoners with mental disabilities should be seen as wider than only a health issue, and should be an essential element of general management strategies, developed by the central prison administration. Improving cooperation with community mental health care services, to ensure equivalence of care and continuity of treatment, should comprise one of the key objectives of management strategies.
- Awareness-raising: Prison staff, prisoners and their families should be provided with information and educational material aiming to increase their awareness about mental disabilities, in order to reduce the stigma and discrimination associated with mental health problems, and to help them better understand the psychological consequences of imprisonment, ways in which to prevent mental health problems and how and where to seek help, when they do arise.
- Gender-specific mental health care: Gender-specific mental health service policies and strategies need to be developed for women prisoners, taking into account their different mental health care needs.
- Monitoring and evaluation: Independent inspection of prison facilities, including health care services, is essential, which should be complemented by internal monitoring and evaluation. Measurable standards should be developed to assess and evaluate the outcomes of prison mental health care strategies and practices. Data collection and assessments should form an integral element of management policies, enabling the improvement of strategies and their implementation.

4.3.2 Staff

A. Health care staff

Providing adequate mental health care necessitates taking into account many factors (environmental, psychosocial, medical etc.) and adopting a multidisciplinary approach to treatment. The task is particularly challenging in prisons, due to poor conditions, overcrowding, lack of resources, and the high rate of mental disabilities and co-occurring disorders. Thus, prison administrations will need to ensure that each prison has an adequate number of health care staff with specialized skills in identifying and managing mental disabilities. Prison health personnel need support and training to enable them to fulfill their responsibilities effectively.

Qualified psychologists and medical staff, who are prepared to work in prisons are often in short supply. Prison administrations should ensure that their expertise is not diverted into inappropriate tasks, for example, by providing them with appropriate auxiliary support.

The difficulties in recruiting suitably qualified health care staff to work in prison settings need to be addressed by the Ministries involved, by ensuring that the employment conditions of such staff are at least not less attractive than similarly qualified medical staff that work in the community. Prison mental health care staff should have access to in-service training and opportunities to increase their qualifications and receive at least the same salaries as those in the community health care services.

At the same time as managing individual patients, the community staff can also provide training and support to prison health care staff. The presence of community health care staff will also facilitate the continuity of care, both for those arriving in prison while under treatment in the community and for those who are released with mental disabilities.

Such support may also be supplemented by peer counseling by prisoners. This kind of support is crucial especially in low-income countries, where there is likely to be a severe shortage of qualified prison mental health care staff. Those working with women and children imprisoned with their mothers require special training to manage their particular needs.

B. Other prison staff

The nature of the prison community is such that, in addition to ensuring the availability of a full range of health care services, prison administrations should also recognize that all prison staff need to have an understanding of basic mental health matters. Prison staff is in contact with prisoners on a regular basis. They come to recognize patterns of prisoner behavior and can sometimes detect changes in them more rapidly than health staff whose interactions with prisoners may be limited. Understanding the nature and symptoms of mental disabilities enhances the ability of prison officers to respond appropriately to prisoners with mental health care needs. Detection and intervention at an early stage, before mental distress develops into a more serious problem, are key to reducing the increase of mental disabilities

in prisons, and to preventing self-harm and suicide. Staff has a fundamental role to play in this process.

Thus training on basic mental health issues should be provided to prison administrators and first line prison staff. The training should enhance staff understanding of mental disabilities, raise awareness of human rights, break down stigmatizing attitudes and encourage mental health promotion for both staff and prisoners.

4.3.3 Access to justice

In order to ensure that individuals with mental health care needs who come into contact with the criminal justice system are not disadvantaged, it is vital that they have immediate and regular access to legal counsel during their whole period of arrest, detention and imprisonment. Due to the difficulties individuals with mental disabilities may face in accessing legal counsel, police and prison authorities should assist them to access legal aid, especially during the period of arrest, prosecution and pre-trial detention etc.

4.3.4 Assessment, allocation and accommodation

Poor prison conditions, overcrowding, inadequate ventilation, heat and lack of stimulation can have an adverse affect on the mental well-being of all prisoners and exacerbate existing mental disabilities. All prisoners, but especially those with mental health care needs should therefore be housed in an environment that is conducive to mental well-being.

A careful risk assessment of prisoners should be undertaken to ensure that prisoners with mental disabilities are protected from abuse and violence by other prisoners. Generally prisoners with mental health care needs should be accommodated in units under the supervision of a medical officer.

4.3.5 Mental health care services

A. Health screening

Every prisoner should undergo a medical examination on admission. The screening should include assessment to determine mental disabilities and be undertaken by qualified medical professionals. The early diagnosis of any mental disabilities and the provision of timely and appropriate treatment are vital to reduce the possibilities of existing mental health problems developing into more serious disabilities.

The potential of suicide or self-harm should comprise an essential consideration during the health screening undertaken on entry to prison, which should aim to identify prisoners who may be at risk of such actions and to ensure that they receive appropriate counseling and protection.

B. Treatment

In prison settings treatment strategies will also need to take into account the particular challenges relating to treatment in a prison environment, usually with scarce resources.

- Mental health promotion, prevention and early intervention: The principle of preventing health conditions from arising should form an essential component of prison health policies. Counseling and therapy should be offered as early as possible to those in need.
- Confidentiality: Mental health care professionals should respect principles of confidentiality with regard to medical information. Confidentiality encompasses in requesting access to mental health care staff, during consultations and with respect to medical records.
- Access to consultations with mental health care staff: Prisoners with mental disabilities should have easy access to suitably qualified mental health care staff in line with the principles valid for all health care in prisons.
- Informing prisoners of treatment options and consent: Prisoners should be provided with full information about treatment options, risks and expected outcomes and they should participate in treatment planning and decision making. No treatment should be undertaken without the patient's free and informed consent.
- Individualized, interdisciplinary treatment: Treatment should be individualized, and interdisciplinary, including a balanced combination of psycho social, medical (where necessary) and other support programmes as appropriate for the individual case. Exclusive reliance on medication to manage symptoms of mental distress should be avoided.
- Awareness of times of risk: Prison authorities, health care and other staff should be aware of times when prisoners may be at risk of particular distress and anxiety, such as their first night in prison, the first period of imprisonment, and ensure that appropriate support provided by counselors and mental health care professionals.
- Cooperation with community health care providers and NGOs: Collaboration between prison and civil health services should be an integral component of medical care provided in prisons. Regular visits to prisons by specialists and other members of the community mental health care services are essential in a large majority of prison systems worldwide to ensure that prisoners have access to adequate health care equivalent to that in the community. Prisoners requiring specialist care should be referred to specialist community mental health care providers. In some countries the only support available might come from NGOs working in the field and cooperation with them should be encouraged and facilitated.
- Peer counseling: Consideration may be given to providing peer counseling to prisoners with mental health care needs, by carefully selected and trained prisoners, to supplement the professional health care provided by the prison health services. Such a strategy might alleviate some of the challenges associated

with resource constraints and recruitment of qualified staff, as well as providing a selected group of prisoners with skills which they can develop.

C. Suicide and self-harm prevention

Developing strategies to prevent suicide and self-harm and to provide appropriate psychological and, if necessary, psychiatric treatment to those at risk need to form a comprehensive element of mental health care in prisons.

The health screening undertaken on entry to prison and regular assessments are key components of self-harm and suicide prevention strategies. The prevention of such acts also depends to a large extent on proper supervision and the ability of prison staff to identify prisoners at risk and refer them to mental health specialists.

Reception

A number of studies have found that “the risk of suicide is particularly high in the first month a prisoner spends in a new prison, with heightened risk during the first days”. They recommend that “the reception area and procedures should be organized in such a way as to minimize mental distress.” The United Kingdom NGO, Howard League for Penal Reforms’ research shows that a dedicated wing/unit where all new prisoners spend their first 48 hours at the prison can prevent suicides.

Induction

WHO also recommends that a well-organized induction procedure to introduce prisoners to the regime of the prison is put in place to support and optimize their ability to cope with prison life.

Peer support programmes

Other means of support for prisoners have included peer support programmes, where prisoners are trained in peer support skills in order to monitor prisoners’ distress.

All acts of self-harm or attempted suicide should be approached from a therapeutic standpoint

Prisoners may also use acts of self-harm as a means of protesting against poor prison conditions, and other forms of human rights violations. Under such circumstances prison management need to address the cause of such acts of protest, rather than punishing those who take such extreme measures to draw attention to unsatisfactory conditions or worse. Criminalizing such acts in legislation or applying disciplinary measures, will only build up tension and resentment, while those suffering from mental disabilities are left untreated and their mental health deteriorates. Each incident of self-harm and attempted suicide should be treated as serious, rather than being regarded as “manipulative”. Prisoners who undertake such acts should receive immediate medical treatment for any physical injuries and be given prompt access to specialized counseling and therapy.

A positive prison environment

It must be emphasized that a fundamental element of strategies to reduce incidents of self-harm and suicide in prisons, is to create a prison environment, which is not

harmful to the mental well-being of prisoners. In parallel to the identification, and supervision of “at-risk” prisoners and the individual treatment provided to them, there is a need for prison management to take a proactive and positive approach to improve prison morale, in order to reduce incidents of self-harm and suicide.

D. Treatment without free and informed consent

Consent to treatment is one of the most important human rights issues relating to mental disability. The Mental Illness Principles recognize that no treatment shall be given without informed consent. This is consistent with fundamental tenets of international human rights law and medical ethics, such as the autonomy of the individual.

The Convention on the Rights of Persons with Disabilities (CRPD), adopted on 13 December 2006, and which came into force on 3 May 2008, introduces stricter safeguards in order for health care to be provided to persons with disabilities on the basis of free and informed consent.

Violent behaviour merely stemming from a refusal to treatment should never be used as justification for treatment without free and informed consent. It is also important to stress that the ability of the individual to consent to treatment may vary with time, and with the nature of treatments proposed, and must therefore be continuously re-assessed. The administration of any such treatment should be controlled by legislation and should be conducted in line with strict administrative and judicial procedures.

Such treatment should only take place in the hospital unit of the prison or in a general hospital, for the shortest possible period of time, under the supervision and care of specialized psychiatrists and other appropriate mental health care staff. All treatment should immediately be recorded in the patient’s medical records, with an indication of whether it is with, or without, informed consent.

In order to prevent situations where treatment without consent may be necessary, prison health care policies should emphasize preventive measures, ensuring that prisoners with mental disabilities are actively involved in decision-making from the outset, that where necessary support is provided to help them make free and informed decisions, and that they are motivated to participate in treatment. Treatment should always be applied in response to a recognized clinical symptom, have a therapeutic aim, and be likely to entail a real clinical benefit—and not only have an effect on the administrative, criminal, family or other situation of the patient.

4.3.6 Prisoner programmes and family contact

Access to meaningful activities and social interaction, as well as other mental stimulation is fundamental to protecting prisoners’ mental and physical well-being. Thus it is essential that all prisoners have access to a varied set of prisoner programmes, including work, vocational training, education, sports and recreation, among others. Research indicates that prolonged inactivity and isolation exacerbates

existing mental disabilities and has a negative effect on treatment outcomes. It is also fundamental that regular and meaningful contact with family members and friends can be maintained through visits and correspondence.

4.3.7 Safety and security

A. Supervision

Careful allocation and ongoing supervision are essential to ensure the safety of prisoners with mental disabilities from violence, abuse, self-harm and suicide. Effective supervision necessitates the employment of an adequate number of suitably trained staff.

B. Disciplinary punishments

As mentioned earlier, prisoners with mental health care needs are likely to break rules more often than others, usually due to reasons stemming from their mental disability, rather than any intention to disrupt prison discipline. Thus, placing prisoners with mental disabilities in segregation units to punish them for their behavior cannot act as a deterrent and can dramatically worsen the prisoners' condition.

Strategies need to be developed to reduce or eliminate the use of administrative segregation or any other potentially harmful punitive measures, by emphasizing preventative approaches. Disciplinary isolation should be used as a last resort, if at all, and for the shortest possible period of time.

However, prison medical staff, including mental health staff, should have regular access to prisoners held in disciplinary segregation to monitor their physical and mental health condition, to provide any necessary treatment and to ensure that they are immediately removed, if necessary.

C. Disciplinary hearings and complaints mechanisms

Prisoners with mental disabilities should be able to defend themselves during disciplinary hearings and all necessary assistance should be provided. Such assistance may be provided by personal advocates and/or a medical practitioner. Prison authorities need to ensure that prisoners with mental disabilities have equal access to complaints procedures.

4.3.8 Monitoring

Independent monitoring mechanisms should be in place to monitor mental health services provided in prisons. They should be carried out by civil mental health care professionals on a regular and adhoc basis. Independent prison inspection bodies and monitoring boards should include the monitoring of the conditions in which prisoners with mental disabilities are held and their treatment.

In parallel, in order to comply with good management practices, prison administrators should put in place mechanisms for the ongoing monitoring of prison conditions and the treatment of prisoners with mental disabilities, to evaluate the

outcomes of treatment provided, identify any acts of discrimination and ill-treatment by staff or prisoners and the overuse of segregation units, and to take appropriate action.



LIST OF RESOURCE MATERIAL

1. Convention on the Rights of Persons with Disability – 2006.
2. Handbook on Prisoners with special needs – Criminal Justice Handbook Series – United Nations Office on Drugs and Crime – UNODC – Vienna – 2009.
3. Information book for prisoners with disability – Prison Reform Trust and Offender Health - Department of Health and Ministry of Justice – UK - 2009.
4. It's About Ability – An explanation of the Convention on the Rights of Persons with Disability – UNICEF and A World Enabled – The Victor Pineda Foundation – 2008.
5. Pakistan Prison Rules, 1978 – Rules for Superintendence and Management of Prisons in Pakistan.
6. State of Human Rights in Pakistan 2011 – Human Rights Commission of Pakistan (March 2012).
7. Juvenile Justice System Ordinance – 2000.



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