

# GLOBAL PRISON TRENDS 2021



**Special Focus**

**Prisons in crises**

## Global Prison Trends 2021

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**As countries continue to navigate new waves of the pandemic, prisons remain hotbeds for virus transmission.**



Personal protective equipment is delivered to a prison in Uganda by PRI, supported by the European Union.



# Introduction

Over a year on from the declaration of the COVID-19 pandemic, this seventh edition of *Global Prison Trends* is published jointly by Penal Reform International (PRI) and the Thailand Institute of Justice (TIJ). This report documents key trends over the past year, especially the impact of the pandemic on prison populations and staff, and how prisons worldwide have responded to these challenges.

The dangers posed by COVID-19 to people detained and staff working in cramped, overcrowded conditions in prison were acknowledged in the earliest stages of the pandemic. High-level United Nations (UN) and government figures made statements highlighting the risk to life and health in prisons and, as *Global Prison Trends 2021* describes, most countries implemented some form of emergency releases to reduce the prison population. As countries continue to navigate new waves of the pandemic, prisons remain hotbeds for virus transmission. Also, new offences for breaching COVID-19 regulations and the resumption of court processes have led to increases in prison numbers.

The challenges faced by prisons over the past year have been compounded by decades of inadequate funding and criminal justice reform. The pandemic has exposed the impact of overcrowding and under-resourcing of prisons in the gravest of terms – through the loss of life. We mourn every death in prison, both people detained and staff, and encourage all actors to learn

from the experience of the past year, as detailed in *Global Prison Trends 2021*, to ensure prison systems protect the human rights of those they hold.

Health crises and other emergencies are not unprecedented in prisons. This year's Special Focus examines prisons in crises, and how authorities respond to health crises, natural hazards and extreme weather, or in fragile and conflict-affected settings. We look at how prisons and the people within them are affected, as well as the involvement of prison populations in times of such crises and consider what measures authorities can put in place for better preparedness and response.

For human rights to be most effectively protected – especially in emergencies – we need fewer people in prison. Therefore, addressing prison overcrowding and promoting the use of alternatives to imprisonment are key priorities for both PRI and the TIJ. In this vein, 30 years after the adoption of the UN Standard Minimum Rules on Non-custodial Measures (the Tokyo Rules), and 10 years since the adoption of the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), we must all work to increase the use of alternatives to imprisonment. *Global Prison Trends 2021* documents some good progress towards implementation of these standards, as well as the new challenges faced by probation services during the pandemic.

In March of this year, the Kyoto Declaration was adopted at the 14th UN Congress on Crime Prevention and Criminal Justice in Japan by all UN member states, setting out the crime prevention and criminal justice agenda for the next five years. Building rehabilitative criminal justice systems remains a core issue for many governments and actors in this field as reflected in the Declaration – and this is much needed and an area in which civil society and institutions play a key role.

The global pandemic has been a solemn reminder there is much more work to be done to protect the most vulnerable people in our societies. With less than nine years remaining to achieve the Sustainable Development Agenda 2030, *Global Prison Trends 2021* addresses the specific challenges faced by women, children, older people, and other marginalised groups in the justice system. With limited or no disaggregated data publicly available in many prison systems, our combined research, operations and expertise allows us to continue to identify and highlight key trends affecting these populations to ensure 'No one will be left behind' as we build back better from this global crisis.

## Olivia Rope

Executive Director  
Penal Reform  
International

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Executive Director  
Thailand Institute  
of Justice

# Key facts & figures

## The global prison population continues to rise



PEOPLE IN PRISON

↑ **8%**  
SINCE 2010

THIS LEADS TO



WOMEN IN PRISON  
**740,000+**

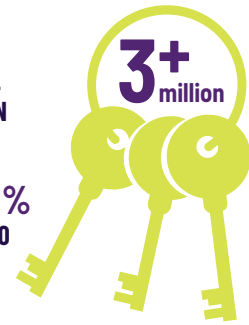
↑ **17%**  
SINCE 2010



↑ <b>53%</b> OCEANIA	↑ <b>24%</b> AFRICA	↑ <b>17%</b> SOUTH AMERICA
↑ <b>50%</b> ASIA	↓ <b>29%</b> EUROPE	↑ <b>8%</b> NORTH AMERICA

PEOPLE IN  
PRE-TRIAL  
DETENTION

↑ **30%**  
SINCE 2000

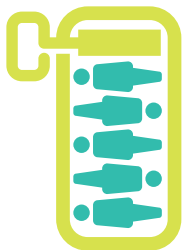


**70%** of prison populations are  
AWAITING TRIAL, PRESUMED INNOCENT

in **14** countries

### Chronic overcrowding

Prisons in many countries operate above their capacity



> **100%**  
CAPACITY  
in  
**118+**  
countries

> **250%**  
CAPACITY  
in  
**11**  
countries

### Staff shortages

Staff to prisoner ratios vary widely across countries



THIS LEADS TO



## Suffering in prisons during the pandemic

### People in prison



**3,931+**  
COVID-19 DEATHS  
reported in

**47+**  
countries



**532,100+**  
COVID-19 CASES  
reported in

**122+**  
countries



IMPACT ON MENTAL HEALTH



PROTESTS & VIOLENCE

### Prison staff



STAFF EXHAUSTION  
COVID-19 CASES  
reported in

**48+**  
countries

# Key facts & figures

## COVID-19 impacted on the number of people in prison

REDUCTION



### Factors that helped reduce prison population

#### EMERGENCY RELEASES



**109+** countries adopted release mechanisms in 1st COVID-19 PEAK

BUT

&lt;6%

global prison population released under these measures\*

BUT

75%

of countries did not explicitly include women†

#### SUSPENSION OF COURT PROCEEDINGS



#### ALTERNATIVES TO IMPRISONMENT

were used more during the pandemic

INCREASE



### Factors that led to an increase in prison population

#### MANY NEW OFFENCES

for breaching COVID-19 related rules

Imprisonment or fines



#### CLEARING THE BACKLOG OF COURT CASES

when court proceedings resumed

High numbers admitted to prisons

\* March - June 2020, Harm Reduction International; † March - July 2020, DLA Piper.

## Prisons took measures in response to COVID-19

### Medical isolation



**MOST COMMON MEASURE** for cases/symptoms

Used in **46+** prison systems globally

Conditions often akin to solitary confinement

### Visitation bans



**IMPACTING ACCESS TO:**

Family contact  
Food & medicines  
Healthcare  
Rehabilitation  
Legal representation  
Detention monitors

### Vaccination plans



**PRISONS PRIORITISED**

in **13+** countries

**PRISONS INCLUDED**

in **11+** countries

# Key messages

These key messages do not cover all of the trends identified in *Global Prison Trends 2021*, but they represent some of the most pertinent and pressing issues facing criminal justice systems that require urgent attention.

01

## **COVID-19 release schemes have done little to halt the rise in prison populations**

There are 11 million people in prison globally – a rise of about 8 per cent over the last 10 years. Prisons are operating above capacity in 119 countries, and measures to reduce prison populations have been inadequate. At least 109 countries adopted measures to release people from prison in response to the pandemic, but many were abandoned or ineffective. Arrests for COVID-19-related offences and clearing court backlogs increased overcrowding in some places.

02

## **People continue to face increased risk of COVID-19 in prison**

A reported 3,931 people in prison have died due to COVID-19 in 47 countries, and over 532,100 people in prison have tested positive in 122 countries, but the true numbers are much higher. People in prison are especially vulnerable due to cramped living conditions, lack of hygiene supplies and poorer health status.

03

## **The overuse of pre-trial detention continues despite the pandemic**

Three million people are in pre-trial detention, a rise of 30 per cent since 2000. While some people on remand benefitted from release schemes, COVID-19-related arrests led to an increase in the use of pre-trial detention.

04

## **The pandemic has exacerbated failures in prison healthcare**

Many prison systems have failed to implement critical COVID-19 preventive measures. Low levels of medical staff and resources for healthcare have been further stretched, which, coupled with restrictive regimes, has affected healthcare provision in prisons – both for COVID-19 and other health conditions.

05

## **The prevention of COVID-19 outbreaks in many prisons came at a cost to human rights**

Many rights have been violated under severe restrictions. Regimes of solitary confinement, or at least measures where people were isolated, quarantined or confined in groups, have been in place for months. Levels of violence and unrest have risen, and people have been cut off from the outside world, including access to essential supplies.

06

## **COVID-19 measures in prisons have had a devastating effect on mental health**

The pre-pandemic mental health crisis in many prisons globally has reached grave new levels due to COVID-19 restrictions, and the suspension or downgrading of mental healthcare provisions. Data shows that self-harm and suicide rates have risen among some prison populations.

07

## **People in prison have widely protested against shortcomings in COVID-19 responses**

Reports of protests and violent incidents in prisons are linked to the handling of COVID-19, including restrictive measures imposed, fear of infection and the lack of action and provisions. Excessive use of force by authorities in responding to such protests has led to death and injury of people detained.

08

## **New offences under COVID-19 regulations have affected the most marginalised**

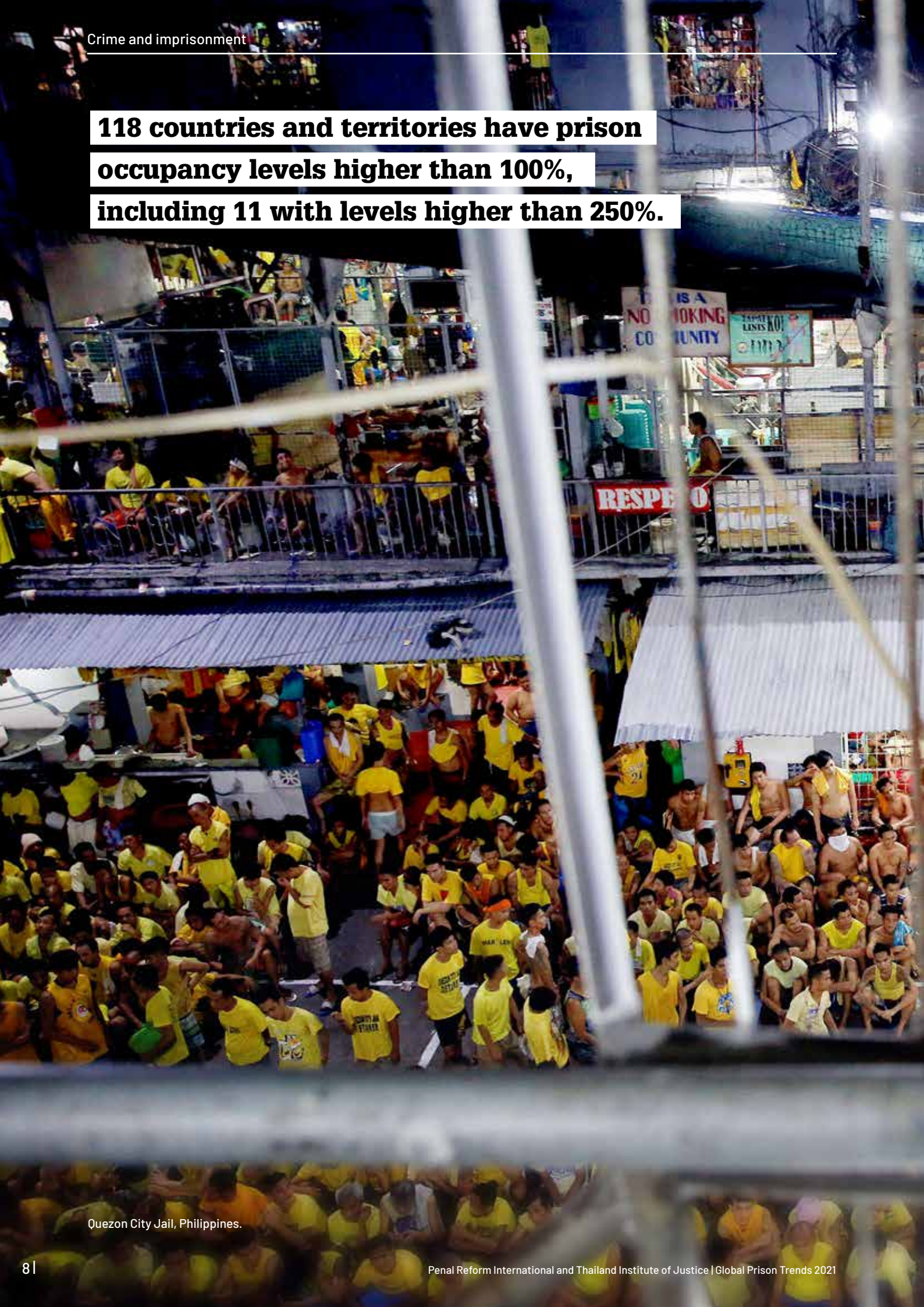
Criminalisation of non-compliance with COVID-19 regulations has effectively criminalised poverty and affected the most marginalised. Enforcement of restrictions has been racially biased and discriminatory. In some countries, such offences attracted pre-trial detention or prison sentences.



- 09 There are major issues in data collection and transparency in prisons** Long-standing shortcomings in data collection and transparency in prisons have been highlighted during the pandemic. Rates of COVID-19 among staff and people detained remain unknown in many countries, as do the implementation and the impact of release mechanisms.
- 10 More women are in prison than ever before** New analysis shows that 740,000 women are in prison globally, an increase of over 100,000 in a decade. Women have suffered increased hardship in prison during the pandemic. COVID-19 response strategies have left women behind, including in release schemes.
- 11 Children were left behind in COVID-19 responses** At least 410,000 children are in prison every year. Despite the risks and impacts of COVID-19 restrictions on children, including solitary confinement, children were not explicitly included in many release schemes; where they were, data is scarce as to whether they benefitted.
- 12 Prison staff have suffered during the pandemic** Prison staff have endured changes in their workloads and conditions, even living or being locked down on site for weeks or months. They have faced an increased risk of contracting the virus, accounting for up to 88 per cent of COVID-19 cases in some prison systems. Staff shortages and low prisoner-to-staff ratios have worsened during the pandemic.
- 13 There has been an increase in alternatives to imprisonment, but with some challenges** There was an expansion and growth of alternatives to imprisonment in response to COVID-19, although the impact varied significantly. The implementation of non-custodial sentences has faced practical issues due to government restrictions and overburdened probation agencies.
- 14 New technologies have offered a lifeline to many people detained, but not to all** Communication technologies have been installed or expanded to facilitate contact with families and provision of telemedicine, rehabilitation and other vital services in many places. However, the digital divide has meant people in prisons without online access have been left behind.
- 15 Racism in criminal justice systems has been put in the spotlight** The Black Lives Matter movement led to some immediate action to address systemic racism, although the attention of protests and policymakers largely focused on police and law enforcement reform rather than sentencing or prisons. Ethnic minorities continue to be over-represented in many prison populations.
- 16 Life imprisonment sentences are on the rise, causing human rights violations** Almost half a million people are serving a formal life imprisonment sentence, and an unknown number are under informal life sentences. A rise in life sentences is replacing death sentences, as punitive approaches to crime persist.
- 17 Punitive prohibition-based drug policies are driving up prison populations** An estimated 2.5 million people in prison are convicted of drug-related offences, 22 per cent of them for drug possession for personal use. There have been some moves towards decriminalisation of certain drug-related offences.
- 18 Universal abolition of the death penalty remains on track, with some setbacks** The movement towards the universal abolition of the death penalty continues to grow, and 2020 saw a record low number of executions worldwide. However, at least 483 people were executed in 18 countries.



**118 countries and territories have prison occupancy levels higher than 100%, including 11 with levels higher than 250%.**



Quezon City Jail, Philippines.



## Part one

# Crime and imprisonment

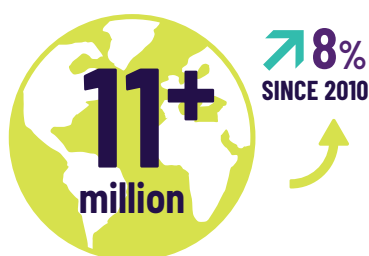
## 1.1. Imprisonment and prison overcrowding

→ **Many countries have criminalised the breaching of COVID-19-related rules, and some have imposed pre-trial detention or prison sentences in such cases.**

There are significant variances across regions and countries in the use of imprisonment. Imprisonment remains the default response to criminal offending in some regions. Asia and the Americas currently house 75 per cent of the 11 million people making up the global prison population. The number of people in prison compared to the general population remains the highest in the US (639 per 100,000), El Salvador (572 per 100,000) and Turkmenistan (552 per 100,000).<sup>3</sup>

Overcrowding levels remain high and are growing to chronic levels with occupancy levels as high as 450 to 600 per cent in Haiti, the Philippines and Congo. In the context of the global pandemic, overcrowding has exacerbated the overall poor detention conditions in many countries, especially access to healthcare, proper hygiene and appropriate nutrition, placing the lives of people in prison at particular risk. Emergency measures to reduce prison populations have been taken in many countries, but initial analysis shows that they have not sufficed in addressing overcrowding (see *Releases in response to COVID-19*).

THE PRISON POPULATION IS INCREASING:<sup>1</sup>



Drivers for high imprisonment and overcrowding rates have been stable over the years. They include the overuse of pre-trial detention, including its automatic application for certain offences. In Mexico, the Senate expanded the use of mandatory pre-trial detention in July 2020 for certain offences, including the illegal possession of weapons, among others.<sup>4</sup>

Mandatory sentencing is also a driver, as well as longer sentences, including an increase in the use of life imprisonment. Drug policies continue to result in rising prison populations especially in Asia and the Americas. In at least six Latin American countries, mandatory prison sentences are given for non-violent drug offences even as prisons are already overwhelmed.<sup>5</sup> Despite the high rates of imprisonment, the World Drug Report 2020 of the UN Office on Drugs and Crime (UNODC) concluded that the illicit drug trade continues to expand and drug use is on the

OVERCROWDING IS WIDESPREAD:<sup>2</sup>



rise,<sup>6</sup> showing that harsh policies are not effective in meeting their purported goal.

Responses to COVID-19 have contributed to prison overcrowding due to a backlog in court hearings from a scaling back of judicial activity and increased caseloads due to the criminalisation of violations of restrictions and other emergency measures. The latter resulted in a variety of sanctions ranging from fines to up to several months or even years in prison, as in France and Taiwan. In Uzbekistan, the Criminal Code was amended in March 2020 to sanction the distribution of 'misinformation' about the spread of the virus in the country by up to three years' imprisonment.<sup>7</sup>

UN human rights experts expressed serious concern over new laws adopted in Cambodia in March 2021 which grant the Government power to ban or restrict any gathering or demonstration, and allow 20-year prison terms and fines of up to 20 million riels (USD 5,000) for those convicted of violations.



In several countries, people are being sentenced to short prison terms for the violation of quarantines, such as in Bahrain, Ireland, Singapore and the Cayman Islands. In the Philippines, as of June 2020, nearly 190,000 persons had been apprehended for violating quarantine orders, adding a heavy burden to congested courts. In October there were still 1,700 persons detained in already overcrowded pre-trial facilities for noncompliance with quarantine regulations. In Morocco, the emergency law resulted in the arrest of a significant number of people, mostly young adults, leading to an increase in the prison population.<sup>8</sup>

Elsewhere, there were concerns that existing legislation on the voluntary transmission of contagious diseases could result in being charged with serious offences.<sup>9</sup> In many places arrest and detention were reported to have been used as a first rather than last resort in cases involving noncompliance with public health measures, often increasing the risk of contagion with little physical distancing employed.<sup>10</sup>

Extending criminal law as part of governments' responses to the global pandemic has affected people in a situation of vulnerability, including LGBTQ+ people and indigenous

peoples. The use of fines can have a particular impact on economically vulnerable persons: in Barbados for instance, a man was sentenced in December 2020 to six months in prison for breaching COVID-19 protocols, after he could not pay the BDD 6,000 (USD \$3,000) fine upon his arrest.<sup>11</sup> In Europe, a network of NGOs expressed their concerns at the overall movement towards the use of criminalisation in the COVID-19 response, especially regarding reports of unlawful arrests and charges and their impact on people in a situation of economic vulnerability.<sup>12</sup>

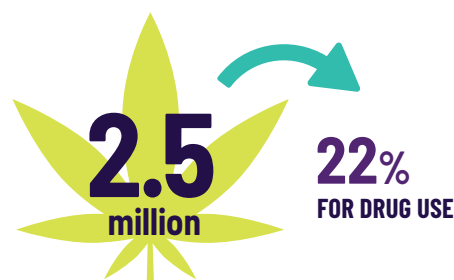
## 1.2. Laws that discriminate against marginalised groups

→ **At least 42 countries in Africa have laws on petty offences such as loitering and vagrancy which effectively criminalise poverty.**<sup>13</sup>

→ **Reports suggest new offences for breaching COVID-19 regulations have disproportionately affected the poorest members of society.**

In 2020, new offences were created for non-compliance with COVID-19 related laws and emergency measures in many countries, in some places resulting in detention (see *Imprisonment and prison overcrowding*). Criminalising non-compliance with coronavirus regulations has in many instances criminalised poverty, affecting the most marginalised. In the Philippines for example, quarantine protocols and prolonged restrictions

**NUMBER OF PEOPLE IN PRISON FOR DRUG-RELATED OFFENCES:<sup>14</sup>**



### The impact of COVID-19 on crime rates

New research, including from the US, Peru, India and Australia, have found a correlation between 'stay at home' orders from governments as part of COVID-19 responses and short-term decreasing crime rates.<sup>15</sup> While these preliminary results vary across countries and between different crimes, analysis by the UNODC supports these findings. Their study assessed trends before and after lockdown measures were introduced with regard to intentional homicide and property crimes and found that reported robbery, theft and burglary declined by more than 50 per cent in most countries, with more significant decreases where there were stricter restrictions. These numbers were caveated with indications that the decline is not only due to a decrease in crime but also in their reporting. In regard to intentional homicide rates, the data collected from 21 countries showed that in some countries there was a short-term decrease of 25 per cent, but in others no change was recorded. In Colombia and Guatemala – where intentional homicide is generally perpetrated by gangs or organised

criminal groups as in the rest of Latin America – the data showed a short-lived decrease of around 25-30 per cent in intentional homicide victims a month after the lockdown began. However, by June 2020, the levels returned to pre-pandemic levels.<sup>16</sup> In South Africa, the number of homicides reported by police had significantly dropped during the initial phase of the pandemic to 94 victims, compared to 326 in the same period the previous year.<sup>17</sup>

The Council of Europe's SPACE Initiative noted that, in its member states, restrictions in many places could plausibly have limited criminal opportunities and led to a decline in crime—and by extension imprisonment. This phenomenon, coupled with emergency release measures implemented in a number of countries to alleviate prison overcrowding, may have contributed to the overall decrease in prison populations across Europe in 2020.<sup>18</sup>

However, it is suggested that the longer-term impact of the pandemic could see crime rates rise for offences closely connected to poverty and economic downturn.<sup>19</sup>

on movement disproportionately affected poorer communities with higher numbers of arrests as people had to leave their homes for food, water and work out of economic necessity.<sup>20</sup> In Malaysia, two men were imprisoned for three months when they violated a stay-at-home order as they went fishing for food.<sup>21</sup> The Malawi High Court in late April upheld a stay on the lockdown, after a human rights coalition highlighted the impracticalities of a lockdown where the majority of the population live below the global poverty line, and 90 per cent of households rely on water from outside their homes.<sup>22</sup>

The imprisonment of people involved in illegal drug markets, and particularly people who use drugs, continues to be a major contributing factor to prison overcrowding globally (see *Crime and imprisonment*). Punitive drug laws have imposed disproportionate criminal sanctions over the past decades and have led to an estimated 2.5 million people worldwide in prison sentenced for drug offences. Of these, 22 per cent (470,000 people) are sentenced for drug possession for personal use. Among the further 1.6 million people estimated to be convicted of drug offences, 54 per cent (860,000) are convicted for possession for personal use.<sup>23</sup>

International bodies have criticised the use of detention for drug-related offences, in line with the UN System Common Position on drug-related matters, which calls for alternatives to conviction and punishment for drug offences, including the decriminalisation of drug use and possession for personal use.<sup>24</sup> In 2020, the UN Committee on Economic, Social and Cultural Rights reiterated that the criminalisation of drug use could act as an impediment to the realisation of the right to health.<sup>25</sup> On International Human Rights Day in December 2020, the International Narcotics Control Board also highlighted that the UN drug control conventions require governments to give special attention to alternatives to conviction and imprisonment for

drug-related offences, including education, rehabilitation, treatment and aftercare.<sup>26</sup>

Positively, a number of countries have made progress towards decriminalisation of drug use and possession for personal use. Ghana became the first African country to decriminalise drug use and possession of small amounts for personal use. Oregon became the first US state to decriminalise personal possession of all drugs in November 2020; Vancouver in Canada has voted to do the same, and Norway is considering a decriminalisation proposal.<sup>27</sup> A bill was also tabled in Guyana in February 2021 which would remove prison sentences for possession of up to 15 grams of cannabis, although this would be replaced by mandatory counselling 'for a period to be determined by the counsellor'.<sup>28</sup>

Efforts to address vague, arbitrary, colonial-era petty offences were stepped up over the past year. In Africa, at least 42 countries have laws against vagrancy, being idle or disorderly, or a "rogue and vagabond", which are actively enforced, criminalising minor infractions and behaviour that is otherwise not criminal. In November 2020, the African Commission on Human and People's Rights adopted a simplified version of the 2017 Principles on the Decriminalisation of Petty Offences in Africa. This soft law instrument provides a continental legal standard on the type of petty offences that African states should review and provides a roadmap for civil society advocacy, and for all African States to repeal these laws.

Furthermore, in a landmark ruling, the African Court on Human and Peoples' Rights issued an Advisory Opinion in December 2020 that holds that vagrancy laws, which criminalise poverty and status or identity, violate human rights and discriminate against marginalised populations, and that states have a positive obligation to repeal or amend these laws.<sup>29</sup> Litigation is now underway in approximately 15 new cases in Malawi, Nigeria, Sierra

Leone and Uganda to challenge petty offences. Most recently, a case was filed in South Africa in March 2021 challenging the criminalisation of homelessness using the African Court Advisory Opinion.

In January 2021, the European Court of Human Rights found that a blanket ban on begging in Switzerland, punishable by a fine or a five-day custodial sentence in the event of non-payment, breached the right to private and family life.<sup>30</sup> In their decision the Court took account of the fact that begging constituted a means of survival for the woman in the case.

The criminalisation of certain actions, beliefs, behaviours or other socio-economic factors continue to have a particular impact on women. A 2020 study in Sierra Leone found that 34 per cent of women had either been convicted of or charged with crimes related to poverty and drug use.<sup>31</sup> Larceny was the most common non-violent offence and, according to testimony from these women, they had usually stolen small sums of money, mostly from family members, to provide for their children. Laws prohibiting witchcraft or sorcery also tend to be applied predominantly to women. This is the case in Central African Republic, where most of the approximately 24 women in prison have been accused of witchcraft, which attracts a prison sentence of five to ten years and a fine.

Women continue to be imprisoned under laws restricting their reproductive rights, such as in Malawi, where some women in prison have been charged with infanticide for having miscarriages and stillbirths.<sup>32</sup> In El Salvador, as of September 2020, 19 women who said they had suffered obstetric emergencies remained imprisoned on charges of abortion, homicide, or aggravated homicide. At least 16 of them had been convicted of aggravated homicide.<sup>33</sup>

## Part two

# Trends in the use of imprisonment

## 2.1. Releases in response to COVID-19

→ **At least 109 states adopted measures to release people from prison in response to the pandemic.**<sup>34</sup>

→ **At least 475,000 people were released from prison across 53 jurisdictions from March to July 2020.**<sup>35</sup>

→ **At least 27 European countries reduced their prison population in the first months of the pandemic in 2020; some are now increasing.**<sup>36</sup>

In recognition of the risks to prison populations from COVID-19, many governments made commitments when the pandemic was first announced in March 2020 to reduce their prison populations to ease overcrowding and disperse people held in custody. Measures mainly involved exceptional release mechanisms, including amnesties, pardons, commutations, and early and temporary release schemes, including compassionate release. Many release schemes targeted high-risk groups including older people, those with specific health conditions or disabilities, pregnant women and mothers with young children, in line with guidance from the World Health Organization.<sup>38</sup> Many also included people in pre-trial detention and those serving short sentences or nearing the end of their sentence.

### PROPORTION OF THE GLOBAL PRISON POPULATION WHO BENEFITTED FROM COVID-19 RELEASE MEASURES:<sup>37</sup>



<6%

As much as 40 per cent of the prison population was released in Turkey (114,460 people), 30 per cent in Jordan (around 6,000 people) and over 15 per cent in Catalonia (Spain), Cyprus, Norway, Portugal, France and Slovenia.<sup>39</sup> Over 40,000 people were released in Ethiopia<sup>40</sup> and over 68,000 temporarily in India, about 14 per cent of the total prison population.<sup>41</sup> Some of the largest reported releases were in jurisdictions with no official, supporting data, including 104,000 people serving sentences in Iran, and 62,000 people in Iraq, including both sentenced and pre-trial detainees.<sup>42</sup> In Indonesia, the prison population decreased by 12 per cent between January and April 2020, notably because of COVID-19-related emergency releases. By the end of October 2020, 82,000 people had been released in the Philippines,<sup>43</sup> mostly from remand.

### PRISON RELEASES IN RESPONSE TO COVID-19:

Country	Proportion of prison population released (%)	Number of people released
Turkey	40%	114,460
Ethiopia	36%	40,000
Cyprus	23%	172
Portugal	17%	2,155
Norway	15%	447
India	14%	68,000

Despite obvious benefits of release measures, many targets for decreasing prison populations were missed, and far fewer people than needed to prevent transmission in prisons were released. A regional survey in Latin America found that between March and June 2020, five out of 26 prison systems released less than 1 per cent of their prison population, and nine released between 1 and 5 per cent.<sup>44</sup> In South Africa by July 2020, less than 6,800 of the estimated 19,000 people that would be eligible had been released on parole. Others were said to have been hindered by bureaucratic or practical issues, such as difficulties achieving sign-off from relevant bodies during lockdown



or insufficient supply of electronic monitoring devices to facilitate house arrest.<sup>45</sup>

Barriers to the success of these schemes varied across countries and regions. Where there is chronic overcrowding, the measures did not reach far enough. In Malawi, it is estimated that the number of people imprisoned was reduced by just over 12 per cent through emergency releases, but with prisons operating at 260 per cent capacity, this was not enough to effectively reduce the risk of outbreaks. The second wave of COVID-19 has resulted in more than 300 people in prison contracting the virus, but the true numbers are expected to be much higher.<sup>46</sup>

Any benefit of release schemes was cancelled out in some countries where COVID-19 offences led to detention pre-trial or at the sentencing stage. In Morocco, arrests for breaching COVID-19 regulations, mostly of young males, led to a new increase in the number of people in prison, despite releases by high pardon including children, women, and the elderly.<sup>47</sup> In Uganda, 833 people were released by Presidential pardon, but the continued detention of suspects and the suspension of most court hearings meant the prison population more or less remained the same. There has also been no discernible change in Cambodia's prison population, with the release of people keeping pace with the numbers of new arrivals in detention.<sup>48</sup>

Changes in political sentiment saw U-turns on emergency release schemes in several countries, including England after six people were mistakenly released.<sup>49</sup> Media reports of negative public opinion also led to changes like in Argentina where protests against prison releases were held in the capital in April 2020<sup>50</sup> and within weeks court decisions to release high-risk groups were reverted and no more releases were offered to at-risk individuals.<sup>51</sup>

Courts in some countries ruled on the emergency release of detainees. In Pakistan, the Supreme Court in April 2020 overturned lower courts'

decisions to release people on bail due to the pandemic. This meant that in Sindh province, for example, 90 per cent of the 500 people released in March were returned to jail,<sup>52</sup> and the prison population increased by 21 per cent from April to December 2020.<sup>53</sup> In the US, however, successful litigation efforts, including by the American Civil Liberties Union, resulted in a number of court orders and settlements including in the state of North Carolina where 3,500 people will be released early as a result of a lawsuit challenging prison conditions during the pandemic.<sup>54</sup>

The outcomes of reducing prison populations during the pandemic for disease control and healthcare provision have been the subject of various studies, although further analysis would be required to understand the longer-term impacts. One study in the US state of Texas found a correlation between crowdedness and viral spread; prisons operating at 94 – 102 per cent capacity had higher COVID-19 infection rates and more deaths than those at 85 per cent.<sup>55</sup> Another US study found efforts to depopulate a large urban jail reduced transmission by 56 per cent, with a subsequent 51 per cent decrease in transmission when single-cell occupancy was increased.<sup>56</sup>

A key concern that emerged regarding mass releases was related to support for those released (see *Rehabilitation and reintegration*). Many of the schemes also imposed multiple overly burdensome conditions to be eligible for release, even where release was temporary or limited to those nearing the end of their sentence. This excluded many people who faced high risk of infection and harm in prison, despite the fact they may pose little or no risk to society, or who would be released in a matter of months in any case. People in prison for drug-related offences were automatically excluded from release schemes in 28 countries,<sup>57</sup> regardless of the nature or circumstances of the offence or the risk of reoffending – Sri Lanka even excluded people 'addicted to

drugs'.<sup>58</sup> Women were also directly or indirectly excluded in many countries (see *Women*).

Although decongestion measures initially decreased occupancy in many prisons, the sense of urgency to reduce prison populations seemed to fade away by mid-2020. Reductions in some countries, like the UK, have also been attributed at least in part to reduced inflow to prisons while court processes were disrupted. As court processes resumed and prison systems got to grips with new intake procedures, people have been sent to prison at pre-pandemic levels, or in some cases at higher levels. When prisons reopened in Nigeria in August 2020, 9,900 people were newly admitted.<sup>59</sup> By September 2020, the downward trend in the prison population was reversed in 12 countries in Europe which had higher rates than in June; the rate had stabilised in 22 countries, and only two – Bulgaria and Montenegro – had fewer people in prison in September than June.<sup>60</sup> In France between July 2020 and January 2021, the prison population increased by 6.7 per cent (approximately 4,000 people), as did overcrowding in short-term and pre-trial facilities from 110 to 120 per cent.<sup>61</sup>

Issues around access to justice, legal representation and due process have affected detainees' abilities to be released at the end of their sentence or under regular early release schemes. In Hungary, for example, new legislation adopted at the beginning of the pandemic restricted in-person attendance at court hearings, including those where decisions would be made on non-custodial sentences, release from prison and probation measures.

Embraced by family members following release from La Esperanza Prison, Honduras.

**Despite obvious benefits of COVID-19 release measures, many targets for decreasing prison populations were missed, and far fewer people than needed to prevent transmission in prisons were released.**



## 2.2 Alternatives to imprisonment

→ **Global data on the use of non-custodial measures and sanctions remains scarce in this area although there are efforts underway to address the issue.<sup>62</sup> The gap hinders critical analysis and the ability to expand and improve non-custodial measures and sanctions.**

→ **At the end of 2018, there were about 2 million people in Europe and about 4.4 million people in the US on probation or parole.<sup>63</sup>**

Non-custodial sanctions have been commonly used as part of bringing prison numbers down during the pandemic, taking different forms. New legislation or regulations were adopted in many states to expand the legal basis of non-custodial sanctions or to give guidance on their use. For example, a new law in Turkey allows for early release when half a sentence is completed, albeit with an extension of probation periods from two to three years.<sup>64</sup> In Peru, the government enacted legislation to promote the use of electronic monitoring.<sup>65</sup>

In some countries, governments encouraged judicial and law enforcement arms to avoid imprisonment, as seen in Indonesia<sup>66</sup> and Thailand, in the case of COVID-19-related offences. Courts took the lead in increasing the use of non-custodial options in

Bangladesh and the Philippines; in the latter the Supreme Court reduced the conditions for bail and recognisance to avoid imprisonment of people in poverty.<sup>67</sup> Prison leaders in some cases applied pressure, for example in Russia, the director of the prison administration asked the Supreme Court to encourage the use of alternatives for minor offences.<sup>68</sup>

One concern in the current context continues to be the widening of offences that can attract a sanction, albeit a non-custodial one – often described as ‘net widening’. This is of concern as evidence shows that an increase in non-custodial sanctions does not correlate to fewer prison sentences.<sup>69</sup> On the one hand, non-custodial sanctions like simple warnings, fines or suspended prison sentences are necessary to keep people out of prison and facilitate their rehabilitation in the community. In Thailand, for instance, as of May 2020, 2,276 persons sentenced to prison terms for breaches of COVID-19 regulations were reallocated to a non-custodial sanction under Department of Probation.<sup>70</sup> On the other hand, the results in Thailand demonstrate that new criminal offences relating to COVID-19 risk drawing a large number of people at low risk of reoffending into the criminal justice system.

Where countries saw an increase in the use of alternatives, there was a sudden growth of caseload for agencies tasked with supervising the implementation of non-custodial measures. Many probation agencies

have expressed concern at ‘probation overcrowding’.<sup>71</sup> In Kenya, the caseload for the Probation and After-care Service varied during 2020 with correlation to the lockdowns and court activity. At peak times, the service had high caseloads due to an increase in non-custodial sentences handed down by courts, the referral of some of the 11,000 people released as a response to COVID-19 and a backlog from courts going virtual. For instance, in August 2020 when there was a strict lockdown and limited court activity, only 1,705 people were referred to the probation agency, whereas in November there were 6,412 cases referred.<sup>72</sup> In Singapore, a record number of 3,246 people were placed on community corrections in 2020, a 42 percent increase from 2019.<sup>73</sup> In the Philippines, in 2020 the probation service handled 55 percent more probation supervision cases than the previous year.<sup>74</sup>

On the other hand, in England and Wales and in Northern Ireland, probation agencies’ caseloads decreased somewhat in 2020 compared to the previous year by 12 and 9 per cent, respectively.<sup>75</sup> One explanation for this could be the scaling back of court activities and decisions and the resulting increasing backlog, the impact of which needs to be further examined as it eases. In England and Wales, the prison population did not decrease at the same rate as probation caseloads, showing just over a 5 per cent drop.

In some states electronic monitoring was looked to as the solution to keeping prison populations lower during the past year. In Spain, the number of people under electronic monitoring jumped by more than 130 per cent between March and May 2020.<sup>76</sup> Electronic monitoring was also more extensively used in Italy and the Netherlands. In Senegal and Tunisia legislation was adopted authorising the implementation of electronic surveillance.

### **IN EUROPE AND THE US, THE PROBATION RATE IS ABOUT DOUBLE THE RATE OF PEOPLE IN PRISON.<sup>63</sup>**

Averages across states	Proportion of people <b>on probation</b> compared to overall pulation (per 100,00)	Proportion of people <b>in prison</b> compared to overall population (per 100,00)	Ratio of probation rate to imprisonment rate (times higher)
<b>Europe</b>	<b>211</b>	<b>126</b>	<b>→ x1.7</b>
<b>US</b>	<b>1,730</b>	<b>830</b>	<b>→ x2.1</b>



Agencies charged with supervising non-custodial alternatives have adapted working methods and approaches due to the COVID-19 pandemic in the majority of jurisdictions. Many ended in-person supervision and home visits to people on probation and moved them to phone or video calls. This was often combined with restrictions when entering prisons, limiting the opportunities for pre-release support. In Kyrgyzstan, during the lockdown in early 2020, visits by probation officers to both adult and child clients were suspended and instead conducted over the phone. In Kenya, probation officers' capacity was limited by the lockdown. Probation officers in several countries, such as in Croatia and Austria, have reported increased stress brought by the implementation of these emergency measures and the blurred lines between home and work life.<sup>77</sup>

Due to lockdowns and other movement restrictions, supervision and the fulfilment of conditions

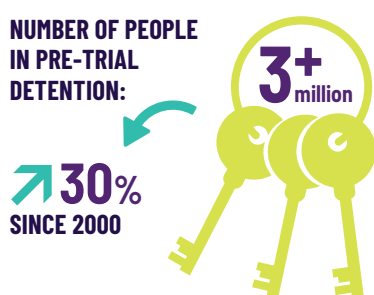
of a non-custodial sanction have become complex. At a minimum, community sentences have been impacted by the suspension or postponement of programmes, community service requirements or reporting requirements. At least 31 probation agencies across Europe had to suspend or adapt the implementation of sanctions they were supervising, many adapting to remote contact with clients. In Georgia, a hotline was set up and high-risk clients were visited at home by probation officers after a protocol was drawn up for the visit.<sup>78</sup>

By its nature, community service – a common non-custodial sanction – involves social contact, in-person supervision and often contact with private-sector entities. It therefore remains hugely impacted by COVID-19. Many systems suspended or postponed community service measures, replacing them with an alternative sanction (like a fine) or extending the period of the sentence, as seen in Portugal and in Scotland. In Kyrgyzstan, some community

service placements have involved contributing to COVID-19 response efforts. Other countries sought to avoid an extended sentence, like in Finland, which required people on probation to submit written or online assignments provided by substance abuse and mental health services, etc.

COVID-19 restrictions are affecting the ability to provide rehabilitation and post-release support, including drug, alcohol and behaviour change support groups, as well as the closure of subsidiary social support such as shelters. These types of programmes and support mechanisms are often an essential part of a non-custodial sanction. An analysis in the US showed that during the pandemic, services for mental health and substance use (part of a community sentence) are provided through remote 'telehealth' means, often as a new initiative and probation officials reported significant concern about clients' relapse because of lack of supervision and support, among other factors.<sup>79</sup>

## 2.3 Pre-trial detention



Rates of pre-trial detention have been rising steadily in recent decades. Analysis published in April 2020 by the World Prison Brief (Institute for Crime and Justice Policy Research) shows significant variance in pre-trial detention rates across and within regions.<sup>80</sup> Since 2000, the number of people in pre-trial detention has decreased in Europe by 28 per cent but increased dramatically in the Americas (71 per cent rise) and Oceania (225 per cent rise). In New Zealand, for example, the number of people held pre-trial



has more than quadrupled over the last 20 years. In the same timeframe, there has been a 56 per cent increase in the number of people in pre-trial detention across Asia: the number has doubled in Malaysia and the Philippines, although it fell by 68 per cent in Kazakhstan. Countries with the highest proportion of pre-trial detainees include Libya with 90 per cent of the prison population on remand, and in Bangladesh, Gabon, Paraguay and Benin the proportion is around 80 per cent.

Pre-trial detention places a heavy burden on penitentiary systems, and increasingly contributes to overcrowding. Of the 47 countries where more than half of the prison population are untried, 32 are operating above their official capacity. In the Philippines and Haiti, where 75 per cent of the prison population has not been sentenced, prison capacities are overcrowded by over 450 per cent. In Venezuela, police stations have been transformed into *de facto* pre-trial detention centres, as prisons do not have enough capacity.<sup>81</sup> In Ukraine, the European Court of Human Rights (ECHR) recently ruled in a pilot judgement that pre-trial detention conditions were overall inadequate, which – with high overcrowding levels – demonstrated a structural problem that needed to be addressed urgently, giving the country 18 months to remedy it and suggesting

increased use of non-custodial measures and renovations to allow for raising minimum space allocated, among other things.

During the pandemic, some countries have targeted pre-trial populations in COVID-19 release mechanisms, with varying success. In Colombia, the pre-trial prison population dropped by 43 per cent between January and December 2020.<sup>82</sup> In Peru it decreased by 17 per cent between January and November.<sup>83</sup>

The proportion of unsentenced people imprisoned in Indonesia went from 24 to under 20 per cent between March and December 2020.<sup>84</sup>

However, COVID-19 related arrests also contributed to pre-trial detention rates remaining stable or increasing. This was seen in Uganda where, by June 2020, the number of people held in remand increased to 55 per cent from 47 per cent in December 2019.

Court activities being scaled back or suspended in many countries due to coronavirus-related restrictions, resulted in people awaiting trial spending more time in prison, as was the case in Sri Lanka<sup>85</sup> and Mexico.<sup>86</sup> In Scotland, the pre-trial prison population reached a record number due to court delays.<sup>87</sup> In Germany, decisions by judicial and political authorities were made to extend pre-trial detention in case of delayed or postponed procedures.<sup>88</sup>

## 2.4 Death penalty

→ **At least 483 people were executed in 2020 (including 16 women), 26% less than in 2019.**<sup>89</sup>

→ **144 countries have abolished the death penalty in law or practice.**<sup>90</sup>

→ **In December 2020, a record 123 governments supported the biennial UN resolution which calls for a universal moratorium on executions.**

The movement towards the universal abolition of the death penalty continues to grow, with a vast majority of states having abolished it in law and in practice. However, there has still been regression in a few hard-line countries.

Chad, Kazakhstan and Armenia recently joined the two-thirds of the countries in the world that have abolished capital punishment for all crimes. Chad removed the last remaining dispositions providing for the death penalty in its anti-terrorism legislation, and Kazakhstan and Armenia ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights in early 2021, which is the only binding international instrument prohibiting the use of the death penalty. In the US, Colorado abolished the death penalty in March 2020, as did Virginia in March 2021, the 23rd state – and first southern

state – to do so. Two-thirds of US states have now either abolished capital punishment or have not carried out any executions in the last decade.<sup>91</sup>

In 2020 there was a record low number of executions worldwide. At least 483 executions were carried out in 18 countries in 2020,<sup>92</sup> while in 2019 at least 649 executions were recorded in 20 countries.<sup>93</sup> The statistics continue to exclude China, where capital punishment is classified as a state secret, but thousands of people are believed to be executed every year.

Some progress, albeit limited, has also been observed in retentionist countries. Sudan repealed its laws that provide for the death penalty and flogging for consensual same-sex relationships and for apostasy. Attitudes are changing in Iran, where a recent study showed that 44 per cent of people surveyed stated that they were against the death penalty for all crimes, and 85 per cent agreed that it should not be used on people who were children at the time of the crime.<sup>94</sup> In Saudi Arabia, a royal decree was issued in April 2020 ending capital punishment for offences committed as a child.<sup>95</sup> Pakistan's Supreme Court ruled in February 2021 that people who have serious mental health issues should not be executed.<sup>96</sup>

Where the death penalty remains in place there is evidence that shows its use is often inherent

and systematically arbitrary.<sup>97</sup> Journalists and protestors have been executed in several retentionist countries, including Yemen and Iran. In Malaysia, as of 1 December 2019, 70 per cent of people on death row had been sentenced to death for drug-related crimes, a category that does not meet the threshold of the 'most serious crimes' for which the death penalty can only be imposed per international law.<sup>98</sup>

In the US, the federal government in the Trump administration's last six months resumed executions after a 17-year-long moratorium. Between July and December 2020, 10 people were executed, more than all executions in the states combined. The Death Penalty Information Center reported that the vast majority of them suffered from mental illnesses and disabilities at varying degrees. In January 2021, Lisa Montgomery became the first woman executed by the federal government in 70 years, despite evidence of mental impairments from a lifetime of abuse.

Elsewhere, there were talks of broadening the use of the death penalty. Amid public protests, the President of Bangladesh signed an ordinance making rape a capital offence. In the Philippines, there have been renewed calls for reinstating the death penalty as a tool in the country's violent 'war on drugs'.

The impact of the coronavirus pandemic on the use of the death penalty is difficult to measure. It may be contributing to the lower number of executions and executing countries during 2020, with delayed court processes and other restrictions resulting in fewer death sentences being handed down and carried out. In Saudi Arabia, one of the top executing

countries, observers reported that the significant drop in executions in 2020 could be partly explained by the lockdown restrictions between February and April.<sup>99</sup> In the US, several executions and capital trials were halted by the closure of courts and the spread of COVID-19 among people in prison on death row.<sup>100</sup> An analysis by the Associated Press showed that recent federal prison

executions likely resulted in 'super spreader' events not least due to the high number of people present.<sup>101</sup> Conversely, there have been at least two occurrences of death sentencing in virtual judgements, in May 2020 in Nigeria and Singapore, during the nationwide lockdowns in force at the time.

## 2.5 Life imprisonment

→ **An estimated 479,000 people in prison globally are serving a formal life sentence as of 2014.**

→ **Around 65 countries impose sentences of life without parole.**

→ **183 out of 216 countries and territories have formal life imprisonment.**

The number of people serving life sentences continues to rise as a result of a shift away from the death penalty, with many sentencing codes replacing capital punishment with life imprisonment. Courts are also commuting sentences as seen in Kazakhstan, Benin and Burkina Faso in recent years.<sup>102</sup>

Formal life sentences are increasing also due to punitive responses to crime. In Poland and Serbia, legislation has recently established life sentences without parole. Poland also lengthened the minimum period before those serving a life sentence can be considered for release from 25 to 35 years, and extended supervision of those released to cover the rest of their lives. In Nicaragua, congress approved life imprisonment in January 2021, moving the country's maximum sentence from 30 years to life in prison.<sup>103</sup>

This trend is also reflected in the fact that life imprisonment is consistently being imposed for a wider range of

offences for which a death sentence would not have been considered. Legislative proposals in Colombia seek to introduce life imprisonment in cases of sex offences against minors, and proposals in England and Wales also foresee whole life sentences as the 'default' for premeditated murder involving child victims. Life sentences are increasingly imposed for non-violent offences. In New Zealand, supplying or dealing a Class A drug (such as methamphetamine) is punishable by up to life imprisonment, and in several Asian countries, including Hong Kong and the Philippines, trafficking and/or manufacturing drugs can attract a life sentence.<sup>104</sup>

All states of the US, with the exception of Alaska, can impose a life sentence for non-violent offences, and in 22 states these sentences can be without the possibility of parole. Prisons in the US hold the largest proportion of people serving life sentences internationally. According to new analysis by the Sentencing Project from February 2021, one in seven people in US prisons are serving life, totalling 203,865 people. Women serving life without parole increased by 43 per cent between 2008 and 2020, compared to a 29 per cent increase among men.<sup>105</sup> The US also remains an outlier by allowing life without parole for crimes committed by children (under 18 years of age). However, that trend is reversing following a Supreme Court ruling on the matter in 2017. The federal government and 29 states

are reviewing cases or granting new sentences, and 24 states have now outlawed life sentences without parole where the crime was committed by a child.<sup>106</sup>

Reforms to reduce the use of life imprisonment have been seen in several states over the past year. In Mozambique, an accumulation of sentences was reduced from 50 years to 30 in 2020. Furthermore, a number of reforms are bolstering opportunities and improving procedures for release, such as in Ireland where the decision on release of a life-sentenced person will shift from a political body to a statutory parole board. In Lithuania, a 2019 law requires routine release consideration for those serving life sentences, paving the way for release after 20 years are served – a move approved by the European Court of Human Rights. In Belize, where life without parole was declared unconstitutional in 2016, amendments to the Criminal Code have introduced the requirement for a parole board to consider the release of life-sentenced persons.

Despite the vulnerability to COVID-19 for many people serving life sentences (due to age or health status), life sentences were one category of people explicitly excluded from release schemes in a number of countries, such as England and Wales, Indonesia and South Africa. There were, however, some instances where reductions in sentences favourably impacted people with a life sentence.



In Cameroon, a presidential decree commuted and readjusted sentences across the entire prison population; life sentences were reduced to 25 years. In Georgia, the Amnesty Act of January 2021 changes life sentences to a determinate sentence of 20 years.

Conditions for people serving life sentences remain harsh and have worsened during the global pandemic. Data from Ukraine shows that between 2010 and 2018 a total of 256 life-sentenced people died in prison, constituting around a sixth of the life-sentenced population.

The average time served before death was just under 10 years in prison, suggesting that life sentences are served under harsh conditions and have a serious impact on health.<sup>107</sup> In January 2021, the European Court of Human Rights held that routine handcuffing of people in Russian prisons by virtue of their life sentence lacked sufficient justification and amounted to degrading treatment.<sup>108</sup> Applicants in the case had been subjected to routine handcuffing behind their backs every time they left their cells for various periods of time up to 19 years.



**GLOBAL  
PRISON  
TRENDS**

**Special Focus 2021**

**Prisons in crises**

# Prisons in crises

**Many prisons have been at breaking point for too long, with low budgets, inadequate staffing, poor conditions and a growing number of people to provide for and supervise. This hidden fragility is laid bare when external crises hit.**

**In times of economic uncertainty and political instability, or when**

**environmental disasters, health crises and conflict threaten prison systems, they falter and fail. Systemic weaknesses allow for a rapid deterioration of law and order and, without speedy intervention, chaos can ensue. When people in prison are forgotten, neglected and exploited, the impact on individuals and on broader society can be disastrous.**

**More than a year after COVID-19 was declared a pandemic, this Special Focus for *Global Prison Trends 2021* takes a look at how authorities respond to different crisis situations, how prisons and the people within them are affected, and considers what measures authorities can put in place for better crisis preparedness and response.**

## Introduction

Problems within prisons often reflect wider societal problems, and this is particularly evident when a country is hit by a crisis. People in prison become even more dependent on the government to ensure their safety, health and wellbeing, and to provide for their basic needs. Crises rarely come in isolation, with conflict and extreme weather events creating prime breeding grounds for disease, environmental disasters leading to political instability and health crises exposing economic fragility.

Unlike in the community, people in prison cannot evacuate their homes when conflict arises or natural disaster threatens. They cannot decide to flee if they are at risk of attack, and they have limited means to protect themselves against infectious diseases.

This became clear in the early days of the COVID-19 pandemic with detainees being wholly reliant on prison authorities to protect them from the virus.

In all crisis situations, the health and wellbeing of people in prison and staff must remain the priority, and human rights protection must be at the forefront of response plans. Disaster planning and emergency management requires an integrated approach with other agencies and should include crisis prevention, preparedness, response and recovery. It should involve consultation with people in prison as well as staff.

As became apparent by the impact of COVID-19 on prisons, the most successful response strategies in crisis situations

involve human rights-based, proportionate and pragmatic responses, clear communication, and the engagement of both staff and prison populations. Effective responses require everyone to be alert, active and involved. Measures to mitigate the adverse impact of any crisis are important and must take account of any specific or disproportionate impact on particular groups of people in prison, including women, children and older persons.



# 1. Health crises

It is well known that prisons are high risk settings, prone to rapid outbreaks of infectious diseases such as Tuberculosis (TB), cholera, Ebola, and now COVID-19. The specific nature of the population and environmental challenges posed by closed settings present many unique challenges in managing such outbreaks. Past experience has shown that national disease management strategies do not adequately address these specific challenges and often neglect prison populations.

TB, and particularly drug-resistant TB, remains a persistent problem in many prisons largely due to late diagnosis, inadequate treatment, overcrowding, poor ventilation and regular prison transfers. People in prison also tend to come from population groups where TB infection and transmission are higher. The World Health Organization (WHO) estimates that the TB notification rate in prisons ranges from 11 to 81 times higher than in the general population.<sup>1</sup>

In 2014–2016 the Ebola outbreak in West Africa was met with swift detection, early testing and rapid response in prisons.<sup>2</sup> In Liberia, authorities initiated prison decongestion measures, and non-governmental organisations (NGOs) supported the improvement of sanitation measures with prison authorities, resulting in no reported cases or deaths in prisons.<sup>3</sup>

Similarly in Sierra Leone, there were no reported deaths among people in prison from Ebola, largely

owing to timely coordinated action by the prison authorities and NGOs such as Advocaid. An observation and isolation centre was set up for newly arrived detainees, staff received training in the prevention of Ebola transmission, and Personal Protective Equipment (PPE) and hand sanitiser were distributed to people in prison and staff.<sup>4</sup>

A number of cholera outbreaks have affected prisons in recent years. Cholera transmission is closely linked to inadequate access to clean water and sanitation facilities and is often associated with humanitarian crises. A 2010 outbreak in Haiti infected at least 30 detained persons and 13 reportedly died from cholera.<sup>5</sup>

An outbreak at a prison in Kisumu, Kenya in July 2017 resulted in three deaths. It was reported that a breakdown of the water treatment plant had contributed to the outbreak.<sup>6</sup> An outbreak in Yemen in 2016–2018, as a direct consequence of the ongoing conflict, also impacted prisons. PRI supported efforts to address the outbreak by supplying medicine to meet the treatment needs of 3,600 cases across five facilities, establishing two health clinics in prisons and medical isolation rooms for the treatment of infectious disease, and developing educational materials for people detained on how to prevent the spread of cholera through personal hygiene.

The ongoing COVID-19 pandemic has exposed weaknesses in health systems around the world and the

lack of preparedness, prevention and control mechanisms in place for a health emergency of this scale (see *Health in prisons, Global Prison Trends 2021*).

Because they are highly controlled environments, however, prisons can achieve infection prevention and control through systematic screening on arrival at prison, regular health monitoring of all people in prison and targeted controls on movement in and out of facilities. The prison environment can also allow for identification of vulnerable individuals, early detection, rapid testing and contact tracing, as well as awareness raising and support initiatives, and vaccination and treatment programmes which can reach entire prison populations.

The Irish Prison Service, for example, received praise for its response to the COVID-19 pandemic, with its contact tracing system submitted to the WHO as a model of best practice. The Irish public health response was informed by previous experience of dealing with infectious diseases in prisons, and characterised by early planning, prevention and training in the use of PPE. The effective response was also owing to a clear recognition of the continuum between prison health and public health, and the benefits of collaboration between prisons and public health agencies.<sup>7</sup>

## 2. Fragile and conflict-affected settings

Violent conflict has grown dramatically since 2010 with more violent conflicts now than at any time in the past 30 years.<sup>8</sup> In 2020, 23 per cent of the world's population lived in the 57 'fragile' and 'extremely fragile' contexts identified by the OECD's fragility framework. This includes 76.5 per cent of the world population living in extreme poverty<sup>9</sup> and at least 13 per cent of the global prison population, totalling over 1.4 million people.<sup>10</sup>

The situation in fragile settings has become more complex, with climate change and other new risks. The long-term impact of the COVID-19 pandemic on fragile and conflict-affected settings is yet to be fully seen, with predictions that an additional 10 million people in such settings were pushed into extreme poverty in 2020, undoing decades of advancements in poverty reduction and development.<sup>11</sup>

The security situation within prison systems in fragile and conflict-affected contexts is usually weak, compounded by underlying structural deficiencies, inadequate staffing and poor detention conditions. Overcrowding is a common issue; of the 57 fragile contexts, 42 report prison population totals exceeding their official capacities, including 16 countries exceeding them by 200 per cent and 6 by 300 per cent.<sup>12</sup> Facilities in such settings generally lack the infrastructure and expertise to counter the security threats they face, and authorities are unable to ensure the safe custody, health and wellbeing of detainees. Escapes, protests and other security incidents are common.

There is increasing recognition that instability within prisons can result in serious consequences for broader rule of law and security.<sup>13</sup> A study of prison systems in

Yemen for example found that '... insecure prisons, or violations of rights in prisons, can lead to both short and long-term societal discontent and either spark or reignite conflict.'<sup>14</sup> Unsafe prisons and weak governance also breed criminalisation, radicalisation leading to terrorism or violence, or recruitment and mobilisation for terrorism – a common threat attracting attention from governments around the world.

During conflicts, entire facilities and basic infrastructure are at risk from indiscriminate or intentional bombing, impacting sewage systems, the supply of water and electricity, and in some cases leading to deaths and mass escapes. Prisons are targeted for attacks in attempts to release or kill members of different warring factions. Shelling attacks in Yemen which hit a women's prison killed five women and one child in April 2020.<sup>15</sup> In October 2020, armed forces are reported to have freed more than 1,300 detainees in an attack on a facility in the Democratic Republic of Congo<sup>16</sup> and in the Central African Republic, more than 300 people are believed to have escaped from prisons which were attacked or abandoned by security forces during election related violence in late 2020 and early 2021.

When a country or region is in conflict, criminal justice systems – police, courts and prisons – may collapse along with other core government functions, and without the rule of law, impunity reigns. Human rights violations become widespread and people in prison may have no mechanism to seek justice or redress. In these situations, women and children are particularly at risk. The military may take over control of prisons, or they may be run by different warring factions. Groups fighting the incumbent government are

likely to set up their own justice systems, including unofficial detention facilities. Many prisons in fragile and conflict-affected areas suffer from chronic overcrowding due to the mass imprisonment of fighters and the collapse of court systems.

In Syria, for example, enforced disappearances and incommunicado detention, torture and ill-treatment, sexual violence and death in detention have been documented in detention facilities operated by all parties to the conflict. Types of detention facilities range from makeshift places in basements and schools, to purpose-built prisons operated by different warring parties as territorial control has shifted. This has included war crimes and crimes against humanity committed in the context of detention.<sup>17</sup>

Also in Yemen, the criminal justice system has been devastated by years of conflict, a lack of trained personnel and a lack of funding. Prisons have been destroyed in air strikes and others have fallen under the control of opposition groups. Security is weak across all prisons, and staff have limited ability to control or care for people in prison, with some power and functions delegated to detainees.<sup>18</sup> Particular concerns have been raised over the treatment of detainees in detention facilities outside of government control, including unlawful detention, systematic enforced disappearances, torture and deaths in custody in detention facilities.<sup>19</sup>

In Afghanistan, the UN found that, in government run prisons in 2019-2020, 30 per cent of people interviewed provided credible accounts of abuse and mistreatment. Researchers did not have access to detention facilities run by the Taliban

or other opposition groups.<sup>20</sup> Effective monitoring of human rights violations in fragile and conflict affected settings, including in detention facilities, becomes increasingly dangerous, if not impossible.

The daily challenges faced in all prison settings are magnified in fragile and conflict affected areas, and the problems impacting broader society are reflected within prisons. Common issues include shortages of food, medical supplies and equipment due to a failing economy, and damage

or disruption to supply chains. Services, goods and rehabilitation programmes are likely to be cancelled or disrupted. Regular contact with family and friends may not be possible.

In these circumstances, and particularly in the context of ongoing conflict, penal reform efforts may face significant barriers, but organisational changes and improvements to welfare in just one detention facility can have a significant impact on security more generally. The use of alternatives

to imprisonment is also an important consideration in transitional states, potentially proving a key factor in longer-term stability efforts. These measures become increasingly possible where conflict is protracted and particularly where fighting changes over time with different levels of intensity and shifting geographical impact. In Yemen and the Central African Republic, for example, PRI has been engaged in providing emergency assistance but are also involved in strategic longer-term initiatives to rebuild effective systems.

### 3. Natural hazards and extreme weather

Natural hazards and extreme weather patterns are increasing in frequency and intensity in many countries around the world, with an 80 per cent increase in climate related disasters over the last four decades. Despite this, by the end of 2020, only 93 countries had implemented disaster risk strategies at the national level.<sup>21</sup> Climate-related events have a disproportionate impact on low-income countries and the negative effects are felt more severely by vulnerable populations.

People in prison are among those hardest impacted by natural hazards and extreme weather. Unlike the general population, people in prison are not able to decide for themselves whether to evacuate to safer ground, stockpile emergency items or even communicate easily with their support networks outside of prison. They, therefore, face not only the immediate threat of the hazard itself – such as heatwaves, fire, floods, hurricanes, earthquakes and cyclones – but also the impact of these events on prison infrastructure, staffing and the provision of basic goods and services.

Many prisons do not have evacuation plans and other crisis response strategies in place, and those that do often fail to adequately balance the safety and human rights of people in prison with concerns over public security. Existing measures often focus on immediate emergency response procedures, with little consideration of the detrimental impact on individual detainees or, in the case of evacuations, the safeguards that need to be in place in the receiving facility.

When a decision is taken not to evacuate a facility, the prison population and staff can be left in unsanitary, dangerous and sometimes fatal situations and are likely to face difficult living conditions with potential loss of electricity, shortages of food, water and medical supplies. Access to emergency or specialised medical care may be cut, causing particular problems for older, sick or pregnant people or those with physical disabilities or mental health conditions.

Authorities in some countries have recently been faced with responding to natural hazards while dealing with the dual threat of COVID-19. In September 2020,

four prisons in the US state of Oregon, were evacuated due to wildfire hazards, exacerbating concerns over the potential spread of COVID-19 among the already overcrowded prison population, and leading to criticism of authorities' disaster preparedness in relation to safety, access to medical care and sanitary facilities.<sup>22</sup> In California, people detained that were living in tents, introduced as a measure to limit the spread of COVID-19, were moved back into the main prison facility as fire approached and air pollution rose.<sup>23</sup>

In October 2020, flooding resulting from annual monsoon rains forced the evacuation of more than 3,000 people from prisons in Phnom Penh and Banteay Meanchey province in Cambodia, leading to concerns over access to healthcare, food, water, overcrowding and the spread of COVID-19.<sup>24</sup> Human rights advocates expressed particular concern over the health situation of women who were evacuated by walking through the flood to another overcrowded prison and developed skin infections from inadequate changes of clothing they could bring with them.<sup>25</sup>



The threat or onset of natural hazard can also lead to prison unrest and other incidents linked to overcrowding, inadequate responses or strains on prison resources. In Uganda, there were threats of protests in prisons across the country over the past year due to strains on prison resources and management. People detained in Sentema prison near Kampala staged a protest complaining of congestion and flooding of the prison. In Indonesia in 2017, dozens of detainees escaped from a prison operating at over 3.5 times its official capacity during a protest reportedly triggered by overcrowding; just months later, dozens more escaped from the same prison after floodwaters caused a wall to collapse.<sup>26</sup>

As prison evacuations due to natural hazard or extreme weather become more frequent, there is growing awareness of the need for prisons to be included in national emergency planning and for prison authorities to take action to develop and improve their disaster and emergency preparedness, response and staff training. The United Nations Office for Project Services (UNOPS) has made it clear that the possibility of natural

hazards such as earthquakes and floods should be considered in choosing a prison site and to ensure the disaster risk resilience of prison infrastructure.<sup>27</sup>

There are many lessons prison authorities can learn from, and authorities should take the opportunity to consult widely about their response plans. For instance, people held in prisons and local communities can also be better prepared for, and involved in, disaster preparedness. Research in the Philippines in 2015 and 2016 found that the wide range of skills, resources and knowledge among prison populations allow them to play an active role in hazard prevention, mitigation, preparedness and disaster management, complemented by support from external networks, and that this can be done without transferring responsibilities from prison authorities.<sup>28</sup>

Furthermore, in some countries, threats such as wildfires, annual floods and extreme weather patterns can be anticipated. Practical considerations around evacuation or shelter-in-place plans must be accompanied by strategies to alleviate other potential harmful consequences.

These can include ensuring good communication channels with detainees' families, continuity of medical care and contingency plans around scheduled release dates or court hearings. Authorities can also safeguard detainee files and personal belongings in advance.

Heatwaves and periods of extreme cold are increasing natural hazards for prison populations, with many prisons ill-equipped to deal with these harsh climactic conditions. During snowstorms in the US state of Texas in 2021, a third of the State's prisons lost power and 20 had water supply problems, amid reports of food and blanket shortages.<sup>29</sup> Texan prisons were also unable to cope with extreme heat due to the lack of air conditioning units, with a 2017 lawsuit ruling that temperatures must be below 31 degrees Celsius for those who are heat sensitive. This lawsuit followed the deaths of 10 people in prison from heat related illnesses. French authorities have also been criticised for their inability to follow their own protocols in heatwaves, including the distribution of water, the provision of extra showers and increased surveillance of vulnerable people.<sup>30</sup>

## 4. Involvement of prison populations in times of crisis

People in prison can play a valuable role in crisis response efforts. Their involvement is not only pragmatic and cost-effective but can also help individuals feel part of the collective responsibility to respond to disaster situations and assist in their eventual rehabilitation. However, involvement of people detained also comes with risks that must be well regulated and

monitored to protect against abuse and exploitation, as well as to safeguard the community.

Many countries rely heavily on the input of people in prison in times of crisis. In several countries including Brazil, prison volunteers help to fight wildfires,<sup>31</sup> and in the US, detainees have been involved in clean-up efforts following severe storms.<sup>32</sup> Authorities' reliance on people in detention to fight wildfires in the US recently

came to light when movement restrictions, quarantine and early releases due to COVID-19 led to short staffing in firefighting services.<sup>33</sup>

The COVID-19 pandemic saw unprecedented levels of involvement and engagement by prison populations in local and national initiatives to respond to the crisis. These experiences were mixed, with reports that some were exploited to make



**Many countries rely heavily on the input of people in prison in responding to crises.**



People in a Mexican prison make face masks for use in the community.



masks and other PPE equipment,<sup>34</sup> while others expressed a desire to contribute and volunteered their time to help their community.<sup>35</sup>

Detainee-led initiatives to tackle the pandemic appear to have been particularly successful. These included the production of face masks, as well as peer-to-peer education, COVID-19 information awareness and psycho-social support groups. These approaches provided people in prison with purposeful activities when other programmes were cancelled and gave them a sense of involvement and responsibility within their community. In Kazakhstan, detainees were encouraged to sew masks and make other PPE to make up for the lack of other activities, also providing them with valuable skills for the future. In South Africa, people in prison were involved in converting a prison into a COVID-19 quarantine centre.<sup>36</sup>

Involvement in COVID-19 response efforts have also formed part of rehabilitation programmes. In Jordan, PRI

worked with authorities to establish a vocational training programme in prisons to produce sanitation machines for police stations throughout the country, forming part of the rehabilitation programmes for people detained. In Namibia, the UN Office on Drugs and Crime (UNODC) has supported a soap and hand sanitiser production facility as a rehabilitation project which promotes efforts to curb COVID-19 in the country while also improving vocational skills and giving people better opportunities on release.<sup>37</sup>

However, not all crisis response efforts involving people in prison are organised as part of formal rehabilitation programmes. Some are hastily organised, ill-thought through and fail to recognise the contribution of people in prison. Prison labour is authorised under specific conditions set out by, among others, the International Labour Organization (ILO) and the UN Nelson Mandela Rules, which include protections around the health and safety of workers, maximum working hours

and equitable remuneration. However, these provisions are often disregarded, putting people in prison in danger and at risk of exploitation and other abusive practices.

In COVID-19-related initiatives there have been concerns raised in several countries over the working hours, conditions and lack of remuneration for people in prison engaged in the manufacture of facemasks and other PPE, including complaints that materials were not fairly distributed. In Bangladesh, there were reports that masks made by people in prison were distributed to prison officers for free but those detained had to pay for them.<sup>38</sup> In other places, the use of people in prison in the battle against COVID-19 raised significant concerns over forced labour. In Hong Kong for example, women detained complained about their health, low pay and round-the-clock production when government agencies doubled their monthly production rates of masks due to shortages.<sup>39</sup>

## 5. Crisis recovery: looking to the future

The experience of COVID-19 has demonstrated the importance of a coordinated approach between prison and national authorities when dealing with crises of different kinds. The global reach of the pandemic has focused attention on prison emergency preparedness more than ever before; weaknesses have been exposed and important lessons continue to be learned. With other health, environmental and conflict crises looming, now is an important time to take stock of and plan for how criminal justice systems can respond to future emergencies.

COVID-19 has led authorities to pay more attention to what prison reform advocates have been saying for many years – that prison systems are better able to cope with their daily functions and are better prepared to deal with threats of all kinds when they are less crowded, better resourced and organised in closer coordination with other relevant national agencies.

While emergency measures put in place to reduce prison populations due to COVID-19 are not sustainable in the long term, they have presented many opportunities to document the impact of decongestion measures on public safety and could pave

the way for systemic reform (see *Imprisonment and prison overcrowding, Global Prison Trends 2021*). One study by the American Civil Liberties Union (ACLU) found no correlation between reductions in prison populations and crime trends in 29 locations between March and May 2020, meaning that releasing people from prison into the community did not result in increased crime rates.<sup>40</sup> Such figures reflect earlier studies which found that reductions in prison populations are often linked to a decline in crime rates.<sup>41</sup>

The rapid decisions made by authorities on which people could be safely released from prison into the community are also useful



to inform future discussions on reducing the use of imprisonment, and call into question the necessity of imprisoning these groups in the first place. Releases tended to focus on those convicted of less serious offences, those serving shorter sentences, vulnerable individuals and those close to release. A recent study found that schemes where some people were permanently released can be 'a highly effective strategy, provided they are implemented in a structured, transparent and ordered manner.'<sup>42</sup>

Crisis situations can also change public attitudes towards imprisonment. The media focus on the devastating impact of COVID-19 in prisons has somewhat framed debate around the poor state of prison healthcare, prison overcrowding and the mental health impact on people in prison. When people in prison are affected by the same environmental, health and crisis situations as those in

the community, people may better identify and sympathise with their situation. However, negative public reaction to emergency release mechanisms during COVID-19 in some places also highlights the need for effective public communication strategies (see *Releases in response to COVID-19, Global Prison Trends 2021*).

The onset of a crisis of any kind exposes weaknesses within a country's institutions and magnifies existing inequalities. The conditions in which a crisis hits and the resources available for disaster response are fundamental to a governments' ability to respond effectively, but the political will to protect lives is equally important.

The impact of crises on prison staff also needs to be recognised, with their health and safety equally at risk, and significant personal implications if they need to be evacuated and separated from their families during

emergencies. People in prison and staff need to know that they will not be forgotten or ignored during a time of crisis and, when a crisis hits, they need to be kept informed of events in the outside world, including what is happening to their families, friends and communities.

The inevitability of future crises, including conflict, natural disaster and health emergencies, and the resultant impact on prisons, requires enhanced contingency measures to be developed in all countries. The onset of COVID-19 demonstrated that no facility is immune from crisis and that even well-functioning prison systems can take steps to improve their crisis preparedness and prioritise human rights protections within those plans.


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## Part three

# Prison populations

Men make up the majority of prison populations; the latest data from the UN shows that men constituted 91 per cent of the adult prison population across 66 countries and territories in 2018, and in 44 countries and territories, men accounted for 85 per cent of adult convictions.<sup>109</sup>

Research shows that the majority of people in prison tend to be from poor backgrounds often having had experienced unemployment and/or low levels of incomes before imprisonment, low education status and disproportionately high illiteracy rates.

Many have experienced violence, trauma or abuse in their lifetime. Communities affected by high imprisonment rates have been found to correlate with other community problems related to poverty, employment, education, health and discrimination.<sup>110</sup>

An estimated 40 per cent of people in prison have a mental health condition, and mental wellbeing among prison populations overall is lower than among the community.<sup>111</sup> People held in pre-trial detention often have higher rates of mental health problems than the sentenced population.<sup>112</sup>

Young adults in prison, aged 18 to 25 years, have been shown to experience a high rate of complex and traumatic backgrounds, further compounded by mental health issues and a lack of maturity, as evidence suggests that the parts of the brain associated with impulse control continue to develop well into adulthood.<sup>113</sup>

This chapter focuses on the experience of certain population groups who continue to be overrepresented and discriminated against in criminal justice systems.

## 3.1 Women

→ **December 2020 marked ten years since the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) were adopted.**

The tenth anniversary of the UN Bangkok Rules was marked by statements from international institutions, leaders and over 80 civil society organisations expressing alarm at the increase in the global female prison population since the adoption of the Rules, and the general lack of change in treatment of women in prison globally.<sup>115</sup> The overall assessment is that while much progress has been made in raising awareness of the Bangkok Rules and some specific measures have been adopted in a number of

NUMBER OF WOMEN IN PRISON:<sup>114</sup>

741,000+

↑ 17%  
SINCE 2010



countries to improve the situation for women in criminal justice systems, implementation on a significant scale remains piecemeal. This is most notably demonstrated in the upward trend in the number of women in prison worldwide over the past decade.


This rise is due in no small part to the criminalisation and increasing use of imprisonment in response to behaviour by women in many contexts. This includes laws that criminalise poverty such as petty offences, low level drug-related

offences like possession of small amounts of illegal substances, and 'status offences' that only criminalise women such as abortion, witchery or sorcery (see *Laws that discriminate against marginalised groups*).

The increase in women's imprisonment is also an indication of some countries taking harsh approaches to women who commit offences in a context of violence, coercion, poverty or discrimination. In Sierra Leone, for example, loitering laws are particularly likely to criminalise women who do not comply with traditional gender norms such as being out late, and those who engage in sex work, which is otherwise legal.<sup>116</sup> New research in Australia shows the number of women in prison has risen faster than men over the past decade and that women entering prison often come from disadvantaged backgrounds, with a history of substance use



Weaving workshop in Herat  
Women's Prison, Afghanistan.

A photograph of a weaving workshop in a prison. Two women, wearing headscarves and patterned clothing, are seated on a wooden bench, working on a large wooden loom. The loom is strung with white threads, and several bundles of dyed wool in various colors (black, white, red, green) are hanging from the top of the loom. The room has orange walls and a red carpet.

**In many instances, women did not benefit from exceptional release measures to the same degree as men, despite many women in prison being of low risk.**

### CHANGES TO THE NUMBER OF WOMEN IN PRISON OVER THE PAST DECADE:

Number of women in prison	Changes since 2010	
	2020	2010
Oceania	5,000	+53%
Asia	310,000	+50%
Africa	38,000	+24%
Central & South America*	86,000	+19%
Europe	85,000	-29%

\* Although the average proportion of women within the entire prison population has decreased.

and mental health issues. Of the women surveyed, one in four were unemployed prior to imprisonment, 27 per cent were in short-term or emergency accommodation, and 7 per cent were 'sleeping rough' or 'in a squat'.<sup>117</sup> The UK Government said in early 2021 they expect the number of women in prison to rise by 40 per cent by 2025 and plan to build 500 new prison cells specifically for women – in spite of their 2018 strategy which aimed to reduce the number of women in prison. Figures showed more than half of women convicted in 2019 were for low-level offences such as minor criminal damage and shoplifting, and almost half committed their offence to support someone else's drug use.<sup>118</sup>

Women have been somewhat overlooked in strategies for responding to the pandemic in

prisons. Most data officially or unofficially available on COVID-19 in places of detention fails to provide any accurate information on women or disaggregated data by sex.<sup>119</sup> Women have faced increased hardship during the pandemic, where changes to prison regimes failed to account for their specific needs. In Malawi, for example, designating isolation centres in each region of the country for people put into pre-trial detention came at the expense of moving all women to one prison up to 350 km away, which prevented their families from providing them with food and basic necessities.<sup>120</sup> In Norway, women had to undergo quarantine in a high security prison, regardless of whether they were to serve their sentence in a high or lower security facility, as effective infection control measures could not be implemented for women in lower security facilities.<sup>121</sup>

Changes to regimes and visitation which cut off in-person contact with children due to COVID-19 have had a significant impact on women's mental health. In a survey of two English women's prisons in June 2020, 68 per cent of women said their mental health had deteriorated since prisons went into lockdown in March. The number of self-harm incidents in women's prisons across England and Wales increased by eight per cent in the year to September 2020 – and 24 per cent in June to September – while it decreased among men by around seven per cent in the same year.<sup>122</sup> A report published by the Irish Prison Service in 2020 shows that the rate of self-harm was 5.7 times higher among women than

men in prison in 2018. Mental health issues were cited as a primary factor in 45 per cent of cases, while 'procedural' issues such as a recent cell move, change in regime or security level were also highlighted in 24 per cent of cases.<sup>123</sup>

In many instances, women did not benefit from exceptional release measures to the same degree as men, despite many women in prison being of low risk. Research found that across 53 jurisdictions, only a quarter of release mechanisms applied criteria to enable the release of women, including those who were pregnant, breastfeeding or had young children in prison.<sup>124</sup> While release mechanisms in some countries, like Mexico, Bolivia, Chile, Ethiopia, and England and Wales included pregnant or breastfeeding women or those with children living in prison with them, their implementation was patchy. Better efforts were seen in Kenya where sources suggest about a third of women in prison (879 women) were released in 2020 through emergency releases and the end of their prison term.<sup>125</sup>

Women faced an additional barrier to release in countries like Afghanistan, where release was dependent on the payment of bail and fees and women typically do not have control over household finances.<sup>126</sup> Release schemes in at least 28 countries excluded drug-related offences, which disproportionately impacts women in countries where high numbers are in prison for low-level drug offences – such as Colombia, where this applies to 45 per cent of women in prison, compared to 12 per cent of men.

### Period poverty in prison

'Period poverty' refers to the lack of access to sanitary products or knowledge of menstrual hygiene, often due to financial constraints. In prisons, period poverty continues to be an issue affecting women's rights to health and dignity. Some countries, like the UK and Malawi, provide free sanitary products for women and girls in prison. But these measures are not always fully implemented. Last year, women in Chaiyaphum Prison in Thailand received just 12 sanitary pads each, 10 times less than the 120 each woman is due under an annual quota.<sup>127</sup> In India, new research revealed many women in prison were

not aware that authorities provided free sanitary towels and continued to buy them from the prison canteen, rely on family members to bring them, or resorted to using old cloth and rags, posing a real risk to their menstrual hygiene.<sup>128</sup> During the pandemic, more women have gone without sanitary pads and other essential items either because resources were redirected for COVID-19-related supplies, as in Uganda, or because visits were suspended. Such was the case in Colombia, where women in prison had to use one packet of menstrual pads over the course of three months, having previously relied on receiving hygiene products during family visits.



## 3.2 Children

→ **The minimum age of criminal responsibility ranges from 7 to 16 across UN member states. The most common age (in 49 countries) is 14.**<sup>129</sup>

Children in detention facilities have been seriously impacted by Covid-19 response measures. Children were not exempted from the suspension of in-person visits, limits on education or support programmes and severe restrictions on movement throughout the pandemic. In Australia, there were reports of prolonged lockdown and conditions likely amounting to solitary confinement of children in detention centres in Queensland and Victoria.<sup>131</sup>

In the UK, young people aged 12–17 were held in solitary confinement, spending up to 23.5 hours a day alone in their cells for significant periods of time. Almost all education and therapeutic services stopped, and children's right to 14 hours out of their cell was reduced to 1.5 hours.<sup>132</sup>

The implementation of programmes and non-custodial alternatives for children in conflict with the law has also been disrupted in many countries during the pandemic. In Georgia, most diversion and mediation programmes were suspended, and the few that could continue were adapted to take

**NUMBER OF CHILDREN IN DETENTION FACILITIES GLOBALLY:**<sup>130</sup>

**410,000+**



place remotely. Pilot programmes on restorative justice were also suspended. In Kyrgyzstan, during the lockdown in early 2020, visits by probation officers to child clients were suspended (as for adults) and were instead conducted over the phone. This limited contact to a simple check as to whether a child was at home, excluding the usual support.

According to the United Nations International Children's Emergency Fund's (UNICEF) analysis of COVID-19 measures for children in conflict with the law between March and June 2020, countries that had invested in diversion and alternatives to detention over time prior to the pandemic did not have large child populations in detention and, therefore, faced less pressure to urgently release children to reduce risks of transmission. In Montenegro, for example, years of investment in diversion from arrest and detention meant there were fewer than 20 children and young adults in detention in the entire country when the pandemic hit.<sup>133</sup> The availability of alternatives was also a key factor in enabling the release of children from detention as mechanisms, and services were established for their safe reintegration into society.

UNICEF's analysis of December 2020 showed that more than 11,600 children were released in at least 37 countries through using alternatives to imprisonment and suspending new admissions of children into detention.<sup>134</sup> However, children were not always included in release mechanisms as part of COVID-19 responses, despite calls from the World Health Organization, UNICEF and many other institutions to do so.<sup>135</sup> A study on 53 jurisdictions

revealed that only a third of these had explicit measures to release children from detention, and reported that data and information was scarce as to whether there were actually implemented.<sup>136</sup>

Across the Middle East and North Africa, an estimated 3,000 children were released from detention, including 85 per cent of children in detention (883 children) in Sudan as a result of three government directives.<sup>137</sup> Authorities in the Gaza Strip mandated judges to take urgent steps to conclude trials for children in pre-trial detention, which led to the closure of 37 cases with no sentence for deprivation of liberty.<sup>138</sup> In Bangladesh, 343 children (a third of the 1,140 children detained in centres with official capacity for 600) were released, mostly from pre-trial detention, in seven working days following the introduction of virtual hearings.<sup>139</sup> More than 600 children benefitted from release mechanisms across 10 countries in West and Central Africa, including 46 per cent of recorded children in detention in Nigeria. Over 1,400 children have been released from federal and regional penitentiary institutions in Ethiopia, and about 42 per cent of children (457 aged 16–18) and young people (1,231 aged 18–21) were released from juvenile and adult prisons in Mozambique as part of an amnesty.<sup>140</sup>

In many countries, reintegration services for children (when available) do not include specific support for returning to the community, as noted in the 2019 Global Study on Children Deprived of Liberty.<sup>141</sup> However, some countries have made concerted efforts to support and care for children upon and following release from detention during the pandemic. In Guinea, about 104 children (more than half of all detained children) including 5 girls were released into the care of the NGO, SOS Mineurs, or 'one-stop social welfare shops' and then reintegrated with their families.<sup>142</sup> In Mali, a Committee for Monitoring and Reintegration

### CHILDREN RELEASED IN RESPONSE TO COVID-19:

Country	Proportion of children released (%)
Sudan	85%
Albania	50%
Nigeria	46%
Mozambique	42%
Bangladesh	30%



of Children in Contact with the Law (COSURE) was set up and has supported children that have been released from detention, and authorities in Mauritania have coordinated with civil society to ensure minimum social services for children who have been released.<sup>143</sup>

Children from ethnic minorities and Indigenous communities continue to be disproportionately imprisoned

in some countries. New analysis in Australia found Aboriginal and Torres Strait Islander children are imprisoned at 17 times the rate of non-Indigenous children nationally, and up to 43 times the rate in the Northern Territory.<sup>144</sup> While the imprisonment of children aged 10 to 17 years has halved in the US in the past decade, new research has found black children are imprisoned at higher rates than their white peers

in every state, with an imprisonment rate five times higher nationwide; the imprisonment rates of American Indian and Latino youth are 243 and 42 per cent higher than those of white children, respectively.<sup>145</sup> A similar picture is seen in England and Wales, where 57 per cent of children in custody on remand in 2019-20 were from black, Asian and minority ethnic backgrounds.<sup>146</sup>

### 3.3 Older persons

→ **There is no global data on the number of older persons in prison. Known rates vary from 1.8% of prison populations in Indonesia to as high as 20% in Japan.**

→ **People aged 50 or 55 in prison are increasingly deemed as 'older' due to accelerated aging in prison (compared to 60 or 65 years old in the community).**

Older people in prison have faced increased hardship and risks in light of the COVID-19 pandemic, including heightened risk of contracting the virus due to their age and confined living conditions. Data available shows that – like in the community – older persons in prison were more likely to contract COVID-19 and have a higher risk of death. For example, in Ireland, where around 14 per cent of the prison population is of advanced age, 46 per cent of COVID-19 cases recorded in February 2021 were among this age group.<sup>147</sup> In the UK, the COVID-19 infection rate among people aged 60 or over living in prison was 15.5 per 1,000 in September 2020, twice as high than in the general population.<sup>148</sup>

Older persons in prison are also more likely to suffer serious or fatal effects of the virus because of their advanced age and poorer health outcomes compared to people of the same age living in the community and

younger people in prison. Research in England suggests up to 90 per cent of older detainees have at least one moderate or severe health condition, and more than half have three or more.<sup>149</sup> A study of COVID-19 risk factors in one US state found that among people in prison, older age is a predictor for a threefold higher risk of death per decade and doubled the risk of hospitalisation per decade.<sup>150</sup>

Accelerated ageing in prison means that people in prison over the age of 50 are often considered older – compared to 60 or 65 in the community – because of their lower health status and the ageing effect of prison itself. Acknowledging this, the World Health Organisation (WHO), PRI and the UNODC have called for adaptations of national vaccination plans to consider specific conditions for prison settings, without which most 'true elders in prisons' will be missed.<sup>151</sup>

Release mechanisms implemented in response to the pandemic explicitly included older people in many countries including Afghanistan, Azerbaijan and Bolivia, but little disaggregated data is available to show how many were released globally. In the Philippines, of the 21,000 people released from prison in the four months to July 2020, only 409 of more than 3,000 older persons were included.<sup>152</sup> Automatic exclusions of those serving long or life sentences also prevented many older people benefitting from release (see *Life imprisonment*).

Complete data and comprehensive research on older people in prisons globally remains lacking. National data available continues to show an upward trend in some countries with variances between countries in the proportion of older people in prison populations. People aged over 60 years now make up 20 per cent of the prison population in Japan, double the proportion in 2002.<sup>153</sup> The number of men aged over 55 in Scottish prisons has more than doubled in the past decade to 574, representing 7 per cent of the overall prison population, compared to 3.3 per cent in 2010-11.<sup>154</sup> Older people are the fastest growing group in the prison population in England and Wales; those aged 60 or over has increased by 82 per cent in the last decade and by 243 per cent since 2002.<sup>155</sup> Women in prison aged 60 or over has risen by a dramatic 470 per cent (from 23 to 131) since 2002, despite an 18 per cent reduction in the overall female prison population in this period.<sup>156</sup> As a result, the Government in November 2020 committed to developing a national strategy for older persons in prison.<sup>157</sup> As of February 2021, 11.6 per cent of the US federal prison population is over 60,<sup>158</sup> compared to 5 per cent in Peru in November 2020 and less than 2 per cent in Thailand in December 2020.<sup>159</sup> Older people account for just 1.8 per cent of the prison population in Indonesia (4,653 people) as of January 2021.

Despite the rising number and proportion of older people in prison in many countries, prison staff are rarely sufficiently trained to identify and respond to their particular

needs. One approach adopted in some prison systems is to assign a younger detainee to care for an older peer, like in Latvia or Poland, although this has been criticised by

the European Court of Human Rights in judgments over the past decade, highlighting the risk of abuse if such care is organised informally.<sup>160</sup>

## 3.4 Ethnic minorities and indigenous peoples

→ **Ethnic minorities are disproportionately imprisoned in many countries. In the US, black men are imprisoned at rates nearly six times that of white men;<sup>161</sup> in Brazil, two out of three people in prison are black.<sup>162</sup>**

→ **The proportion of Indigenous peoples in prison continue to rise, particularly in Canada, Mexico, Australia and New Zealand.**

In May 2020, the killing of an African American man, George Floyd, by a white policeman in the US sparked global protests against the pervasive, long-standing race-based discrimination in criminal justice systems globally. The Black Lives Matter movement led to some immediate action to address systemic racism, particularly in the US, and international institutions from the Inter-American Commission on Human Rights to the UN Human Rights Council and the EU Commission vowed action. The attention of protests and policymakers largely focused

on police and law enforcement reform. Many political statements, declarations, action plans, etc. failed to mention racial discrimination in prisons as a manifestation of racism in criminal justice systems.

The most recent demonstration of the widespread discrimination faced by ethnic minorities has been seen with the impact of the coronavirus pandemic. Data available on COVID-19 in the community shows that ethnic minorities are more likely to be infected or die from COVID-19, although the reasons remain undetermined with various studies and commissions underway.<sup>163</sup> In Canada, the Correctional Investigator reported in June 2020 that Inuit people contracted the virus at disproportionate rates, compared to their representation in the prison population.<sup>164</sup> This suggests a similar or exacerbated problem in prisons although authorities have generally failed to capture or publish data – broken down by ethnicity – on COVID-19 rates in prisons (see *Data collection and transparency*).

There have been many cases of racial discrimination reported in the penalisation of COVID-19 restrictions during the pandemic. The UN has

drawn attention to people of African descent 'being disproportionately controlled, harassed and profiled by law enforcement authorities, with other people being treated differently or not subjected to control at all.'<sup>165</sup> Minorities are the 'hardest hit by the pandemic, including by job losses, the inability to socially distance or quarantine and limited access to quality health care' and are therefore more likely to come into contact with the criminal justice system.<sup>166</sup>

A report on 12 European countries by Amnesty International details racial bias in the enforcement of COVID-19 restrictions. In France and Belgium, neighbourhoods with large ethnic minority communities have been heavily and disproportionately policed; in Romania, police violence against Roma people were reported.<sup>167</sup> In Australia, a report detailed allegations of police surveillance of Aboriginal communities on the grounds of enforcing COVID-19 restrictions.<sup>168</sup> In the state of Victoria 4.7 per cent of fines issued for violations of COVID-19 restrictions were received by Aboriginal people, despite making up just 0.8 per cent of the population.<sup>169</sup>

## 4.4 Foreign nationals

→ **Worldwide nearly half a million foreign nationals are detained abroad.<sup>170</sup>**

→ **In January 2020, foreign nationals made up 15% of the prison population in Europe, varying from 2% to 70% in most countries.<sup>171</sup>**

Rates of foreign nationals in prison vary greatly from region to region and country to country. In the Middle East, more than one in three people in prison are foreigners.<sup>172</sup> In Thailand, around 4.4 per cent of the prison population is composed of foreign nationals (approximately 12,000 people), whereas only 0.5 per cent of Indonesia's detainees are foreign (around 220 people). The proportion of foreign nationals in

Argentina's prisons is around 6.5 per cent, totalling over 6,000 people. In Europe, as of January 2020, foreign nationals made up on average 24 per cent of national prison populations, and more than a quarter in at least 15 countries.<sup>173</sup>

The rates of women in prison who are foreign nationals continue to be high particularly in parts of Asia and Latin America, owing to drug policies

that entail punitive sentences for drug-related offences or immigration policies. In Thailand's biggest women's prison, foreign national women account for 8 per cent of the prison population (400 women) and almost all of them are imprisoned for drug-related offences.<sup>174</sup> In Chile, Colombia and Peru, foreign nationals constitute large proportions of women held in pre-trial detention (73, 50 and 42 per cent, respectively), with drug-related charges being the most common reason.<sup>175</sup>

The pandemic has posed specific issues for detained foreign nationals. Transfers of sentences effectively came to a halt with travel restrictions and border closures. Across Europe, for instance, there was an almost total suspension under Prisoner Transfer Agreements and the EU instrument on transfers, although exceptional transfers of foreign nationals to their home countries had occurred from neighbouring countries when journeys could be facilitated across borders by road.<sup>176</sup>

The situation for detained foreign nationals has been compounded by lack of certainty around decisions relating to post-release, such as whether someone will be deported or transferred back to their country of origin at the completion of their prison sentence. Some challenges include obtaining resources required for COVID-19 testing prior to international travel, flight availability for people to return to their home countries and avoiding stays in deportation centres for people without community links.<sup>177</sup>

Prisoner release schemes over the past year have mostly excluded foreign nationals, although Iranian officials reported they temporarily released 1,000 foreigners as part of their efforts to reduce prison numbers.

Before the pandemic, a common challenge for detained foreign nationals was maintaining contact with the outside world. During the pandemic, the turn to digital solutions for all detainees has

benefitted this group in some countries, including in Sweden, France, Germany and Netherlands, which all have sizable numbers of foreign nationals in their prisons. Video calls and longer, free calls have been introduced for many. In terms of accessing information about coronavirus, in Austria, where foreign nationals compose 51 per cent of the prison population, information on hygiene measures for preventing COVID-19 were produced in various languages.<sup>178</sup>

Data suggests that the mental health of foreign nationals has been particularly impacted over the past year. For example, an increase in the numbers of self-harm and suicides among people in Italian prisons since the beginning of 2020 shows foreign nationals are disproportionately represented: 43.6 per cent of all recorded suicides in Italian prisons in 2020 were of foreign nationals – far more than the proportion over the last five years, which varied between 29.2 and 39 per cent.<sup>179</sup>

### 3.6 LGBTQ+ people in prison

→ **As of the end of 2020, 69 of 194 UN member states continue to criminalise consensual same-sex relationships, with life imprisonment or the death penalty possible in some countries.**<sup>180</sup>

→ **Research shows LGBTQ+ people are detained at disproportionate rates, but the collection of official or conclusive data remains piecemeal.**

It remains extremely difficult to obtain data and information on the number of LGBTQ+ people in prison, mainly due to their invisibility both inside and outside prison settings. Very few prison authorities actively gather data, and where it is available, it is underestimated due to people

fearing further discrimination and violence if they identify as such and the limited modes of data collection used. The UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity reported in 2019 on the 'incomplete and fragmented' or non-existent information about LGBTQ+ people noting that this means 'in most contexts policymakers are taking decisions in the dark, left only with personal preconceptions and prejudices or the prejudices of the people around them'.<sup>181</sup>

Where data exists, it shows that LGBTQ+ people are overrepresented in prison populations. For example, new research specifically on trans women in Latin America published in 2020 concluded from all the available data that trans women represent a significant proportion of the LGBTQ+ population in prison,

exceeding 30 per cent in Mexico City and in Bolivia. The study found that high proportions of trans women detained are charged or convicted of drug-related offences.<sup>182</sup> In Thailand, recent estimates suggest that transgender persons make up 2.6 per cent of the prison population.<sup>183</sup> In Brazil, the penitentiary administration reported that more than 10,000 people in prison (representing just over 1 per cent of the prison population) identified as part of the LGBTQ+ community after a wide-scale effort to collect data, though the actual number is probably much higher given fears of self-identifying as such.<sup>184</sup>

Despite some positive developments, such as in Gabon, where the parliament reversed its 2019 criminalisation of LGBTQ+ people, members of the LGBTQ+ community continue to face discrimination, in many cases resulting in



imprisonment for offences linked to their gender or sexual identity. There have been cases of COVID-19 response measures being used to target LGBTQ+ people.<sup>185</sup> In April 2020 in Uganda, 23 persons living at a homeless shelter for LGBTQ+ people were arrested on charges of violating public health measures. Twenty were held in pre-trial detention, reportedly without access to legal counsel because of the lockdown in place at the time.<sup>186</sup>

LGBTQ+ people continue to be subjected to discriminatory practices and physical, sexual and psychological violence within prison settings, emanating from prison authorities, staff or other people in prison. In Colombia, 285 cases of discrimination were reported in 2019, including insults, sexual harassment and visitation restrictions.<sup>187</sup> A 2020 report detailed how trans women in prison in Honduras tend to be more severely punished, including through long periods of solitary confinement.<sup>188</sup>

## Part four

# Prison management

## 4.1 Health in prison

→ **At least 13 countries have prioritised prisons in vaccination plans or roll-out; a further 11 countries have explicitly included, but not prioritised, prisons in their planning or roll-out.**<sup>189</sup>

The COVID-19 pandemic has exposed the existing failure of many prison systems to meet even the most basic standards of healthcare not least due to poor conditions linked to being underfunded and understaffed. People in prison have faced a heightened risk of contracting the virus and suffering fatal effects. This is due to cramped living conditions that do not allow for physical distancing, unhygienic conditions, the typically poorer health status and higher social vulnerability of prison populations, and the regular flow of staff and others in and out of prisons. Prison staff have also faced increased risk of contracting the virus with the proportion of COVID-19 cases in prisons among staff as high as 60 or 88 per cent in some countries (see *Prison staff*).

Global figures for infection and deaths due to Covid-19 in prisons are limited by what is publicly available, so the true impact on people in prison and staff will be much higher than reported. Barriers to accurate data include lack of transparency in some countries and insufficient testing in places of detention, due

COVID-19 DEATHS:<sup>190</sup>

**3,931+**  
PEOPLE IN PRISON

in **47+** countries



COVID-19 CASES:<sup>191</sup>

**532,100+**  
PEOPLE IN PRISON

in **122+** countries

to lack of resources or low priority given to places of detention. For example, in Argentina, less than 4 per cent of the federal prison population had been tested by August 2020. In Brazil, it has been suggested that infection and death rates in prisons could be three times the official figures due to limited testing and lack of clarity on how data is collected and what tests are used. The numbers supplied by federal and local penitentiary administrations have not matched, and by July 2020 only an estimated 3.2 per cent of the prison population had been tested.<sup>192</sup>

Testing is often only carried out for people that are newly admitted in prison or showing symptoms, rather than as a preventive measure to stop the spread of the virus. In Thailand, no national data is available, but some prisons reported regular testing for new arrivals in prison, those returning from court or hospital, and staff accompanying them. There are, however, regional variations. In most of Europe testing is widely available for prison staff, newly admitted people to prisons and those showing symptoms.<sup>193</sup>

The data available suggests that while some countries avoided high infection or death rates in prisons compared to the community, like in Kazakhstan and Ireland, many others were unable to control outbreaks. As of March 2021, the highest reported rates of COVID-19 in prisons have been in Barbados (44,588 per 100,000), the US (18,616 per 100,000), Colombia (18,190 per 100,000), Guyana (15,393 per 100,000) and Sri Lanka (14,719 per 100,000).<sup>194</sup>

Analysis of COVID-19 risk factors in a prison setting by outcome found dormitory housing to be the highest for infection rates,<sup>195</sup> but many prison systems with single or double cell-style infrastructure have also failed to prevent prisons becoming epicentres for the spread of the virus, including in high-income countries. By June 2020, the number of COVID-19 cases among people in US prisons was 5.5 times that of the general population, while the death rate was threefold,<sup>196</sup> and by August, 90 of the 100 largest cluster outbreaks had occurred in prisons.<sup>197</sup> The second wave hit prisons in some countries more severely, including in

Europe. In England and Wales, figures from December show the number of people who tested positive for COVID-19 in prisons since the start of the pandemic rose by 70 per cent in a month, and deaths following a positive test rose by 50 per cent.

Many prison systems have failed to implement critical preventive measures recommended by the World Health Organization and others, such as providing personal protective equipment (PPE) for prison populations and staff, training on the use of equipment and preventive measures, and ensuring access to healthcare services.<sup>198</sup> In July 2020, the Brazilian President vetoed legislation that would have made mask use mandatory in prisons.<sup>199</sup> Protests were reported in many prison systems, including in Uganda, where overcrowding in the prison system is over 300 per cent and the lack of PPE and measures to prevent transmission led to escapes and protests in some facilities.

Civil society organisations and international organisations have worked to fill the gaps in many places. For example, PRI has supported the procurement and distribution of PPE in prisons in Jordan and Uganda, and provided posters with infographics to educate detainees and staff on the virus in Kazakhstan and Tajikistan. In Central African Republic, PRI has supported capacity-building for prison staff and civil society to raise awareness on measures to prevent the spread of infection, and the distribution of protective equipment like facemasks. The International Committee of the Red Cross and UN agencies have provided support to prisons in a large number of countries.

The low levels of medical staff and resources for healthcare in prisons pre-pandemic in many countries have been further stretched over the past year impacting on the ability to meet demands from COVID-19 and other health issues. In Argentina, restrictions on movement in some

cases prevented professional staff like psychologists and health workers from entering the facilities. This reduced access to healthcare which was already scarce for people in prison.<sup>200</sup> There were calls to address the severe shortage of medical staff in Indian prisons due to the challenges coping with the pandemic.<sup>201</sup> Records show that prior to the pandemic, one state had no medical officer, while 12 states and territories were understaffed by 50 per cent.<sup>202</sup> Half of Brazil's 1,422 prisons have no medical offices or rooms equipped for treating infected people, and those that do lack medical staff. This has led to difficulties managing quarantine systems, and many people suspected or confirmed to have the virus go back to living among others without being checked to see if they are still infectious.<sup>203</sup>

In the US, 38 out of 50 states charge people in prison fees ranging from USD \$2-8 to see a doctor, on the grounds that it would deter people overusing services or overstressing staff. In response to the pandemic, 11 states waived fees and others have suspended them for people exhibiting coronavirus symptoms.<sup>204</sup> A 2020 report in the Republic of Korea found the demand for medical care has risen steadily in prisons, and the number of treatments has almost doubled in the past decade. However, no prison has filled the number of medical officers in that time, leaving facilities short staffed and leading to calls this year for access to universal healthcare services for people in prison.<sup>205</sup>

Various measures have been taken for dealing with coronavirus cases in prisons. The most common employed by at least 46 prison administrations globally has been medical isolation of individuals showing symptoms compatible with COVID-19 until testing can be carried out, or a positive test confirms infection.<sup>206</sup> In prisons from Kosovo to Slovakia, Paraguay and Uruguay, this has involved the creation of isolation areas that allow for social

distancing protocols. Prisons in Guatemala, Czech Republic and elsewhere facilitated transfers of those sick to hospital, while Turkey appointed additional doctors to minimise transfers from prisons. For asymptomatic people who have been in contact with suspected cases, some prisons like in Portugal and Bulgaria have designated spaces for quarantine where they are monitored for 14 days from the contact. Some have housed detainees with similar risk factors together while they undergo quarantine.

In regard to ailments or conditions unrelated to COVID-19, access to healthcare has been reduced in many prisons with serious effects. Many patients have waited longer for treatment or routine appointments as it has been harder to book or attend medical appointments, particularly treatment that requires escort to and from hospital.<sup>207</sup> In some cases, illnesses have had to reach chronic levels before treatment can be accessed.<sup>208</sup>

People who use drugs in prison faced heightened risks during the pandemic due to underlying health issues and a lack of access to harm reduction and healthcare services.<sup>209</sup> The majority of prisons globally still do not provide adequate treatment and harm reduction measures for people who use drugs, and women in particular have little to no access to available services. Furthermore, many such services that are available in prisons have been suspended during COVID-19 restrictions,<sup>210</sup> for example Opioid Agonist Therapy programmes in at least certain prisons in Moldova and Kyrgyzstan.<sup>211</sup> One notable exception was seen in Kenya, where civil society efforts resulted in the opening of the first Opioid Agonist Therapy programme in Africa, in the Shimo La Tewa prison facility in Mombasa.<sup>212</sup>

While telemedicine was established in some countries before the pandemic, including in the US, Thailand, France and Romania, its use was not widespread. In some places, the pandemic has acted as



**Globally, prisons have not been prioritised adequately in national COVID-19 vaccination plans.**



A prison officer receives the COVID-19 vaccine, Sri Lanka.

a catalyst for digital innovation to mitigate the impacts of restrictions on movement on healthcare provision in prisons. In England, a two-year pilot telemedicine programme using secure 4G tablets for health visits and access to medical notes was launched in June 2020. In Sweden, use of the existing Skype platform was expanded to facilitate appointments between prison healthcare staff and detainees remotely. Doctors were assigned to 24 prison institutions in Morocco and new communications technology was set up to facilitate weekly remote medical consultations, and Armenia is also looking to introduce telemedicine in the penitentiary system.<sup>213</sup>

Phone and internet-based services have also been used for mental health provision in a number of systems to mitigate the suspension of external visits. In one US prison, access to tele-psychiatry was expanded to 60 per cent of all sessions, with training provided to staff and patients on how to use the equipment, which also reduced time escorting patients and helped to conserve the prison's PPE supply.<sup>214</sup>

Tele-psychology was introduced in Irish prisons at the start of the pandemic, which consisted of 20-minute telephone sessions, and a national telephone line was established which allowed access to some services.<sup>215</sup> In Sierra Leone and Kenya, civil society organisations are providing counselling to clients in prisons over the phone as an extraordinary measure during the pandemic.

In many other countries, however, mental health programmes and support networks, or access to psychologists and mental healthcare professionals have been suspended or cut down over the past year. Many prison systems have been unable to deliver adequate mental healthcare provisions due to a shortage – or a total lack – of mental healthcare professionals. In Colombia, mental healthcare provision in prisons has been problematic and women in prison have less access than they did previously. The suspension of family visits in Argentina resulted in an increase in requests for mental health consultations in prisons, straining capacity.

These shortages are particularly of concern given the serious mental health impacts of COVID-19 measures on people in detention, the full impact of which is yet to be understood. Increased isolation, use of solitary confinement and the suspension of family visits, education, treatment and rehabilitation programmes – all factors which contribute to good mental health – have impacted all people detained, and especially those with an existing mental health condition. In Italy, there were 61 suicides reported in prison in the year 2020, a rise from the year before. A report on the experience of people in isolation in Irish prisons found that the lack of social contact and purposeful activity, inconsistency and uncertainty in regime delivery, and feelings of being punished for being vulnerable contributed to deteriorating mental health.<sup>216</sup>

## COVID-19 vaccinations in prisons

There have been many calls for the inclusion of prisons in national COVID-19 vaccination plans. New guidance to be issued in May 2021 jointly by the World Health Organisation (WHO), PRI and the UNODC outlines considerations in relation to the importance of including prisons in vaccination plans to support states in COVID-19 vaccine allocation. It emphasises the heightened vulnerability of prison populations and staff, which make prisons 'hotbeds' for outbreaks of the virus and increases the risk of transmission both to and from the community.<sup>217</sup>

Offering vaccines to people in prison has been contentious in some places. The seemingly political or 'moral' arguments put forward by some which suggest that people convicted of crimes are less worthy of protection than the general population have been denounced by experts as highly problematic ethically, failing to account for the public health implications and irrelevant to the decision-making process of vaccine allocation.<sup>218</sup>

Globally, there has been a failure to ensure equity in vaccination efforts. According to the WHO, as of January 2021, 95 per cent of vaccinations had been administered by 10 wealthy countries, and the UN Secretary General noted in February that more than 130 countries have not received a single dose.<sup>219</sup> This includes many low-income countries and countries in fragile and conflict-affected contexts.

In countries that have adopted or announced vaccination strategies or started roll-out, there have been broadly four approaches to prisons. Some countries have explicitly prioritised prisons, including prison populations as a higher-risk group. In Australia for example, people in prison are among the first groups to receive the vaccine based on the grounds of being at increased risk of exposure and high transmission potential and in Peru prisons are included in the second phase of vaccination with people aged 60 or above and other high-risk groups. Some countries have included prisons within plans or roll-out, but not as a high priority group. Other countries provide equivalence for prison populations or staff with the group that individuals would fall within in the community, and some countries have not specifically referred to prisons at all in national vaccination programmes.<sup>220</sup>

## 4.2 Solitary confinement

A common measure to prevent and respond to the coronavirus pandemic by prison authorities was to implement measures to isolate, quarantine, place people in solitary confinement or confine groups of people to a cell. In many prisons across Europe, the Americas and Oceania, a cell-based infrastructure meant that such measures effectively enforced a regime of prolonged solitary confinement as defined by the UN Nelson Mandela Rules on almost entire prison populations.

The impact of solitary confinement on mental and physical health has been well documented, and new research published over the past year has reiterated that people who have been subjected to it can have long-lasting effects. In the US, the Bureau of Justice Statistics found that approximately 25 per cent of convicted detainees and 35 per cent of those in pre-trial detention jails who had spent 30 days or longer in solitary confinement during the previous year had symptoms of serious psychological distress.<sup>221</sup> Despite this, figures released show that in June 2020 at least 300,000 people in US prisons had been placed in solitary due to the pandemic which was an increase of around 500 per cent from previous levels. In some cases, this involved housing people in cells which had previously been used for punitive isolation but had closed as part of efforts to reform solitary confinement.<sup>222</sup>

Many systems retained such regimes of solitary confinement, or at least measures where people were isolated, quarantined or confined in groups, for weeks and months. Blanket policies were implemented due to the inability to test detainees (and staff), shortage in staffing and difficulty maintaining social distancing in overcrowded prisons.

In some cases, like in Botswana, people were placed in solitary confinement as a condition before release or after returning from hospital as in Turkey. A common measure globally was to place

people newly admitted to prison, and those who had tested positive, in solitary confinement. To cater for the demand of singular or smaller cells some countries converted existing facilities like in Namibia, Sierra Leone and Nigeria, or built new facilities (deemed temporary) as seen in England. In other places, including Egypt and the US, solitary confinement was used also as a punishment where detainees shared news or protested about COVID-19 measures.

Criticism of the massive increase in the use of solitary confinement as a response to COVID-19, including by PRI and other international bodies, focused on a number of concerns.<sup>223</sup> Many of the regimes did not have a sufficient legal basis or measures to mitigate the impact of isolation. Decisions around isolation were and continue to be frequently taken without input from medical experts and failed to assess or consider alternative preventive and response measures.

In Norway, the Ombudsman found that while the purpose of placing up to 70 per cent of detainees in solitary confinement was legitimate as an infection control measure, it did not have sufficient legal basis. They also found that there had been insufficient evaluation of less intrusive measures resulting in prolonged use of solitary confinement. In Argentina, international bodies joined the Prisoners Ombudsman's Office denouncing an order by the penitentiary system which allowed for detainees to be held in solitary confinement for 23 hours per day for between 60 to 95 days.<sup>224</sup> Such measures were commonly implemented and went far beyond the threshold of prolonged solitary confinement as defined in the UN Nelson Mandela Rules which is prohibited regardless of the official reason given for its use.

Other regimes attracted criticism both in terms of purpose and grounds. Measures in place in

Canada's federal facilities were criticised by watchdogs for failing to distinguish between medical isolation, applicable to people who test positive or show symptoms, and quarantine where there may have been exposure to COVID-19. Analysis from the University of California San Francisco's programme AMEND, highlighted the ineffectiveness of making such a distinction, noting that solitary confinement can increase transmission due to its impact on deterring people from reporting symptoms or seeking treatment. Furthermore, cells

### Revision of the European Prison Rules

In July 2020, a revised set of the European Prison Rules was adopted by the Council of Europe. Areas of revision included solitary confinement, records and file management, women, foreign nationals, use of restraints, complaints, staffing, as well as inspection and monitoring, bringing most into alignment with the UN Nelson Mandela Rules and some providing great protection of human rights.

One of the 'key innovations' in the revised rules is a new rule which provides safeguards for detainees separated from others as a special security or safety measure. This is strengthened by further protections in the case of special high-security and safety measures more broadly and supplemented by specific protections when solitary confinement is used in a disciplinary context.<sup>225</sup> An important new protection for people separated for special high security or safety reasons is the requirement that they are offered at least 'two hours of meaningful human contact' per day, strengthening what the UN Nelson Mandela Rules require, while people subject to separation or solitary confinement must also be visited daily, including by the prison director or an authorised member of the prison staff.



(especially those used for solitary confinement) can often be small with poor air circulation.<sup>226</sup>

Aside from COVID-19 related measures, solitary confinement remains common practice in many states despite overwhelming evidence of the harms it causes. Excessive use and degrading treatment or conditions for people in detention remains commonplace in a large number of countries. Discriminatory application of

solitary confinement continues to be of concern in many countries. For example, in New Zealand a December 2020 report found that women were segregated at a far higher rate than men and minority groups were also more likely to end up in solitary confinement.<sup>227</sup>

In 2020, to limit and regulate the use of solitary confinement and separation of detainees in Europe, the revised set of European Prison Rules adopted by the Council

of Europe set out significant new guidance (see *Revision of the European Prison Rules*). In the US state of New York, a bill passed in March 2021 prohibiting solitary confinement for more than 15 consecutive days, or 20 days total in any 60-day period. It would also ban its use for those with mental or physical disabilities, pregnant women, those in the first eight weeks of post-partum recovery, and people under 21 or older than 55 years.

## 4.3 Contact with the outside world

The pandemic brought severe and often long periods of restrictions on contact with the outside world for people in prison. Lack of contact has had a wide range of impact on the rights of persons detained from access to legal representation and to access to basic necessities often delivered by family and support networks.

In Bolivia, while lawyers' visits remained permissible, access to adequate food and medicine became a problem as family members were relied on for such provisions. In Guatemala and Estonia, there were restrictions imposed on packages received by prisons. This was a common problem reported in many places where blanket bans remained in force for months. In Argentina, where prior to the pandemic up to 85 per cent of people in prison relied on families for basics like food and clothes, and 35 per cent for medicines,<sup>228</sup> a blanket ban on visitation was imposed for seven months from March 2020. Analysis from Southern and Eastern Africa showed that in at least 10 countries prisons blocked access to external visitors (in another 11 countries this could not be confirmed).<sup>229</sup>

Other systems took different approaches to retain support from outside prisons, like in Uganda where packages for family or friends could be delivered through the prison gate. In Europe, too, some countries that permit the receipt of food parcels increased their limits on quantity

and frequency and/or raised their allowances to buy food from the prison shop.

Since the beginning of the pandemic, many prisons have implemented for the first time or expanded their use of video calling equipment. This has been used to replace or supplement in-person visits in many prisons across Europe and around the world, including in Kazakhstan, Kenya, Australia, Thailand and Indonesia. There have been significant variances between countries and prisons in terms of the speed of the rollout, whether it is available in all prisons, at cost to the detainee or not, and whether its use is limited in frequency and length of calls. Virtual platforms have also been used by many prison oversight bodies and monitoring bodies as an alternative way to implement their mandate where access to prisons was restricted (see *Detention monitoring in a global pandemic*).

Over a year on from the start of the pandemic, there are many prison systems which retain restrictions or blanket bans on visits. In England, prison visits for family and friends remain suspended as of March 2021, except on exceptional compassionate grounds which need to be agreed in advance with the prison.

Limits on access to legal representatives for detainees were reported globally. International actors pointed to the need for states

to categorise justice services as an 'essential service' to continue operating during the pandemic.<sup>230</sup> Many states did adapt systems enabling detainees to connect to lawyers or courts remotely; however, efforts were often hampered by practical issues (see *Role and use of technologies*). In Sierra Leone, for example, while a phone was made available for use in each facility, poor network connectivity and lack of battery or phone credit created barriers for detainees to access legal representatives and other services. Elsewhere, challenges reported included the cost of calls been incurred by detainees, limits on duration of calls and bureaucratic challenges in adding legal representatives and others to lists of authorised call recipients.

As visitation schemes were reintroduced, these have generally come with new regulations and restrictions. Certain categories of persons are excluded entirely from visits, like in Brazil where persons aged over 60 years old, people with chronic illness, pregnant women and children were not permitted to visit detainees. With regard to the latter group, guidance on children of imprisoned parents was issued in recognition of the serious impact of such restrictions.<sup>231</sup> Many countries, including Singapore and Poland, introduced a visitor's health assessment and temperature checking, while others required visitors to provide travel history.

## Detention monitoring in a global pandemic

Detention monitoring bodies, including National Preventive Mechanisms (NPMs), have faced novel challenges with the COVID-19 pandemic. Normal monitoring methodologies were hindered or outrightly suspended in many countries, bringing higher risks of ill-treatment and less accountability in closed institutions at a time of crisis and unprecedented measures.

At the outset of the pandemic, international and regional bodies, including the UN Subcommittee for the Prevention of Torture and the European Committee for the Prevention of Torture (CPT), reiterated that access for monitoring bodies to all places of detention should be always guaranteed, particularly given the risk of ill-treatment because of COVID-19-related measures introduced. They also reiterated the 'do no harm' principle in any monitoring work.<sup>232</sup>

Many NPMs had to challenge authorities to continue their work and fulfil their mandate. The NPM in South Africa obtained

status of 'essential workers' for their members and staff to allow some of their monitoring work to continue. In Kyrgyzstan, special permits, which were denied on some occasions, were required by monitoring organisations to gain access to prison facilities. On the other hand, some NPMs are closely involved in responses, like in Italy where the President of the NPM is part of the Ministry of Justice's task force on detention and COVID-19 and Honduras where the NPM coordinated with doctors to identify detainees suitable and eligible for release.<sup>233</sup>

The form and methodology for detention monitoring was adapted across the globe. In Georgia, the NPM continued monitoring with members donning PPE and meeting with more than 100 people detained in the first two months of the pandemic using glass barriers and other measures to minimise risk.<sup>234</sup> Many set up phonelines to receive information (as in Portugal and Paraguay); in Kazakhstan, monitoring visits were supplemented by online meetings with detainees for consultations and follow-up discussions.

When visits resumed or were permitted, the impact of such measures did in some cases see rates of visits drop. The conditions for visits entailing lack of physical contact, restrictions on number of people in a visiting party and children's play areas being closed, among other measures, both deterred visitors and led to people in prison asking visitors not to come, as was reported in England, for instance.<sup>235</sup> Furthermore, restrictions on contact with the outside world in

some cases led to unrest in prison facilities, such as in Italy. This was exacerbated where blanket bans were introduced with no warning as seen in Venezuela, where there was no coordination with healthcare experts or communication with detainees (see *Security and violence*).<sup>236</sup> Restrictions on visits have also led to reports of worsening levels of corruption, as in the Congo, where bribes were reportedly exchanged for visits.<sup>237</sup>

There were some exceptions to visitor bans. In the north of Kenya, prisons remained open to external visitors, which allowed for ongoing psychological support and independent monitoring throughout the past year. In Kazakhstan, visitors were allowed and provided with disinfectants and facemasks as a prevention measure. In Uganda, lawyers have continued to permit legal representatives to visit their clients in prison on scheduled visits.

## 4.4 Security and violence

Since early 2020, reports of violent incidents in prison facilities have been linked to restrictive measures imposed due to COVID-19, fear of infection among those detained, and protests around lack of action and appropriate provisions by authorities.

Protests in prisons (often labelled 'riots') affected almost every corner of the globe with fatalities reported in Venezuela, Uganda, Scotland and Sri Lanka. In Argentina, there were 82 protests in prisons reported between March and December 2020,<sup>238</sup> and while protests are not uncommon in the country, many of these were linked to concerns around the handling of COVID-19. Protests across 40 prisons in Italy in early

March 2020 were sparked by measures to limit family visits and contact due to COVID-19. They resulted in the death of 13 detained people and injuries among scores of people including prison staff. In September 2020, a large-scale escape from Singila Prison in Uganda was prompted by fears of a COVID-19 outbreak. Over 200 people who were deemed high-risk escaped, 7 of whom have been killed in police operations to rearrest and 16 have been detained again.

Not all prison unrest over the past year has been related to COVID-19, however. In the US there were country-wide protests in response to the death of George Floyd, which

led to a strict lockdown being imposed on 1 June 2020 in federal prisons, impacting over 165,000 people. Unrest in Sentema Prison in Uganda was in response to overcrowded conditions and flooding of the prison, and in the north of the country, at Pece Prison, calls for better access to courts were central to protests. In New Zealand, poor prison conditions at Waikeria Prison led to a 6-day rooftop protest, with a wing of the prison destroyed by fire, and only ended when protestors were denied food and water.

Excessive use of force by authorities in responding to incidents of unrest in detention facilities is a growing trend. Twenty-four detainees

were killed and 76 injured as police responded to a protest in a Bogotá jail in Colombia with reports suggesting that the high death toll was because authorities did not have less lethal equipment for quelling the violence.<sup>239</sup> Tear gas and rubber bullets were used by police in response to COVID-19-related protests in Togo. In Sierra Leone, a protest in Freetown's central prison in April 2020 left 31 people dead, including a prison officer, after live ammunition was used by prison staff. The detainees were protesting overcrowding and inadequate measures to prevent COVID-19 outbreaks.<sup>240</sup> Similarly, 20 people were killed in an Iranian prison after live ammunition was used by authorities to suppress protests about COVID-19 concerns. In November 2020, staff opened fire on people detained in a Sri Lankan prison with severe overcrowding and staff shortages, leading to 8 fatalities.<sup>241</sup>

Across Latin America, violence – often related to gangs and organised crime groups – has continued to

cause deadly riots and exceedingly high rates of death in custody. Rival gang members fighting across three prisons in Ecuador in February 2021 led to 79 fatalities. In Chile, new analysis of data showed that the number of violent incidents involving three or more people increased sharply from 808 in 2014 to more than 4,000 in 2017. The private management of prisons and low prisoner to staff ratios were linked to higher numbers of such incidents.<sup>242</sup>

In systems where COVID-19 measures meant one or two persons were 'locked down' most of the day in individual cells, there are suggestions that levels of violence between people detained had not decreased but had taken different forms.<sup>243</sup>

Torture and ill-treatment in detention remain systemic and widespread as reported on by international human rights bodies and national monitoring bodies for instance in Ukraine,<sup>244</sup> Uzbekistan<sup>245</sup> and Nicaragua over the past year.<sup>246</sup> Amnesty International reported several cases of torture and

other ill-treatment committed in the name of protecting public health and stopping the spread of COVID-19.<sup>247</sup> While many detention monitoring bodies, including National Preventive Mechanisms (NPMs), adapted to continue their torture prevention monitoring, there were widespread concerns regarding higher risks of ill-treatment because of facilities being closed off from oversight and scrutiny (see *Detention monitoring in a global pandemic*).

At the international level there were ongoing efforts to strengthen safeguards and standards to prevent and address torture and ill-treatment. Most recently in Africa and in Europe, steps were taken to ban trade in the tools of torture. NPMs, with torture preventive monitoring mandates under the Optional Protocol to the UN Convention against Torture, were newly established in Morocco and Chile and started visiting places of detention in 2020 and February 2021, respectively.

## 4.5 Rehabilitation and reintegration

The provision of rehabilitation and reintegration programmes for people in prison is inconsistent from one country to another. Where punitive approaches are pursued, or resources are dire there are few opportunities. Some systems however have comprehensive rehabilitation programmes which are central to prison life and involve delivery from many stakeholders.

Restrictions on movement and contact with the outside world brought in when the COVID-19 pandemic was declared have enormously impacted the delivery of programmes. Training, educational and work activities have been suspended – often for extensive periods or continue to be – in most countries. In a survey across all Latin American countries (except El Salvador), 90 per cent of prison systems had restricted educational

activities and over half of the prison systems had curtailed work. It was found that increased tension and violence was reported in more than half of these settings.<sup>248</sup>

The inability to take part in certain activities and programmes is often an essential part of demonstrating successful rehabilitation which is linked to release decisions.<sup>249</sup> In over half of the US, prison sentences can be reduced by working, obtaining education degrees or completing programmes to address drug and alcohol use. While some states have made concessions because these programmes being suspended, others have not, making prison sentences longer.<sup>250</sup> Furthermore, the cancellation of work programmes meant loss of essential income in many instances, although compensation was provided in a number of countries.<sup>251</sup>

In some jurisdictions, rehabilitation programmes were able to continue, albeit with adaptations. Programmes involving one-to-one sessions have continued in Estonia; in Thailand, preventive measures such as allowing basic vocational training to be led by trained detainees and prison staff and ensuring adequate training materials enabled work programmes to continue. Where there was access to digital technology, online solutions were utilised, enabling adaptation or new programmes to be put in place. In Ireland's Mountjoy Prison, online access to courses at a university were introduced and several universities in the US continued or introduced new courses for people in prison via online platforms. In Thailand, also, prisons in collaboration with academic institutions organised online language classes.



In the current market where digital literacy of at least a basic level is required for many jobs (and daily life), digital neglect in prisons increasingly results in a systematic denial of opportunities to learn or gain employment. It has also left prisons far less resilient to the coronavirus, as those without online access could not adapt rehabilitation services to an online platform. To overcome this challenge there have been increased efforts to train people in detention for employment in the tech sector, where an estimated 149 million new jobs could be created over the next five years.<sup>252</sup> The idea of training people in prison for the tech sector is not a new phenomenon but has increased in recent years as digital technologies have become more commonplace.

In places where reintegration plans and post-release support were lacking before the pandemic, people being released over the past year are faced with additional burden. In Colombia, it has been reported that women released have nowhere to go (not least due to abandonment and stigma) and they are forced into the informal labour market with jobs that expose them to high risk of COVID-19.<sup>253</sup> Day or temporary release schemes – used ahead of the end of a sentence to facilitate reintegration – have been impacted. In Europe, many schemes were stopped for months, and in cases where they

### Leaving prison without identification during the COVID-19 pandemic

An unknown number of people in prison or released from prison have no identification, although over 1.1 billion people worldwide are unable to prove their identity. The post-release barriers for people without ID (or expired ID) have been exacerbated during the COVID-19 pandemic. Obstacles in obtaining identification, such as having the means and ability to access required paperwork, have become more complex. In the US, for instance, public offices that issue ID's have closed or slowed down processes, meaning long waiting times for appointments or papers and worsening the situation.<sup>256</sup>

Data from the California Department of Corrections and Rehabilitation shows that from July to December 2019, approximately 30 per cent of people left prison without ID.<sup>257</sup> ID is critical to rebuilding a life and without one can cause practical issues with finding stable housing, employment, applying for social security payments, or opening a bank account. In the UK for example, it was reported in 2020 that older people were frequently released from prison without any formal ID and this prevented them from registering with a doctor's clinic for necessary healthcare.<sup>258</sup>

resumed as restrictions eased, those returning to prison were subjected to measures imposed on new arrivals (sometimes involving isolation).<sup>254</sup>

With mass release schemes coupled with community services suspended due to restrictions, people leaving prison sometimes went without support. In March 2020, reports suggest that authorities in Maharashtra state in India made no arrangements to help people released during lockdown – when no public transport was available – to find their way home, and that people were released with no information about the virus or how to protect themselves.<sup>255</sup> In England and Wales,

over 1,000 persons were released into homelessness during the first months of the pandemic in 2020, at the height of the first wave of infections.

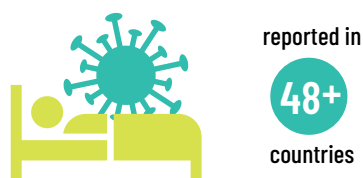
Issues around travelling home where a lockdown or curfew were in place put people at risk of getting rearrested. In Thailand, temporary accommodation was set up for people released from a Bangkok prison to stay for one night, to prevent them from breaching curfew while travelling home. In Uganda, PRI assisted 86 people released under COVID-19 measures to return home safely by providing transportation.

## 4.6 Prison staff

→ **Prisoner to staff ratios can vary from an average of 1:1 to as high as 28:1.**

The coronavirus pandemic brought high risk to the health and lives of prison staff, as well as worsening working conditions for prison staff. While some countries classified or termed prison staff as frontline, essential or at higher risk, overall, their situation did not receive adequate attention from political decision-makers.

### COVID-19 CASES AMONG PRISON STAFF:<sup>259</sup>



Where data is available it shows there is a great variation in infection and death rates from COVID-19 among prison staff. Prison staff in some countries have contracted COVID-19 at rates higher than the general

population (for example, more than two times higher in Colombia<sup>260</sup> and England and Wales<sup>261</sup>; and seven times higher in South Africa<sup>262</sup>), and in some places more cases have been identified among staff than detainees. In Poland, by February 2021, 4,207 cases of staff contracting COVID-19 were reported, representing 85 per cent of all cases in the country's prisons.<sup>263</sup> In South Africa, 5,000 infections had been recorded among prison staff by December 2020, representing 62 per cent of all cases identified in detention facilities.<sup>264</sup> Data collected

Prison monitors visit a pre-trial detention centre in Kazakhstan.



**While some countries classified or termed prison staff as essential, overall, their situation did not receive adequate attention from political decision-makers.**



from 30 European prison administrations show that at least 18,500 prison officials were infected by the virus since the beginning of the pandemic.<sup>265</sup>

The rates of COVID-19 among staff remains unknown in many countries due to a lack of systematic testing of prison staff, or a failure to gather data and/or make it publicly available. In the US, figures are incomplete as prison staff are not systematically tested, and many states are not

releasing relevant information publicly. Therefore, the reported 201 deaths of staff from the virus and more than 110,658 positive tests for COVID-19 among staff as of April 2021 will actually be higher.<sup>266</sup>

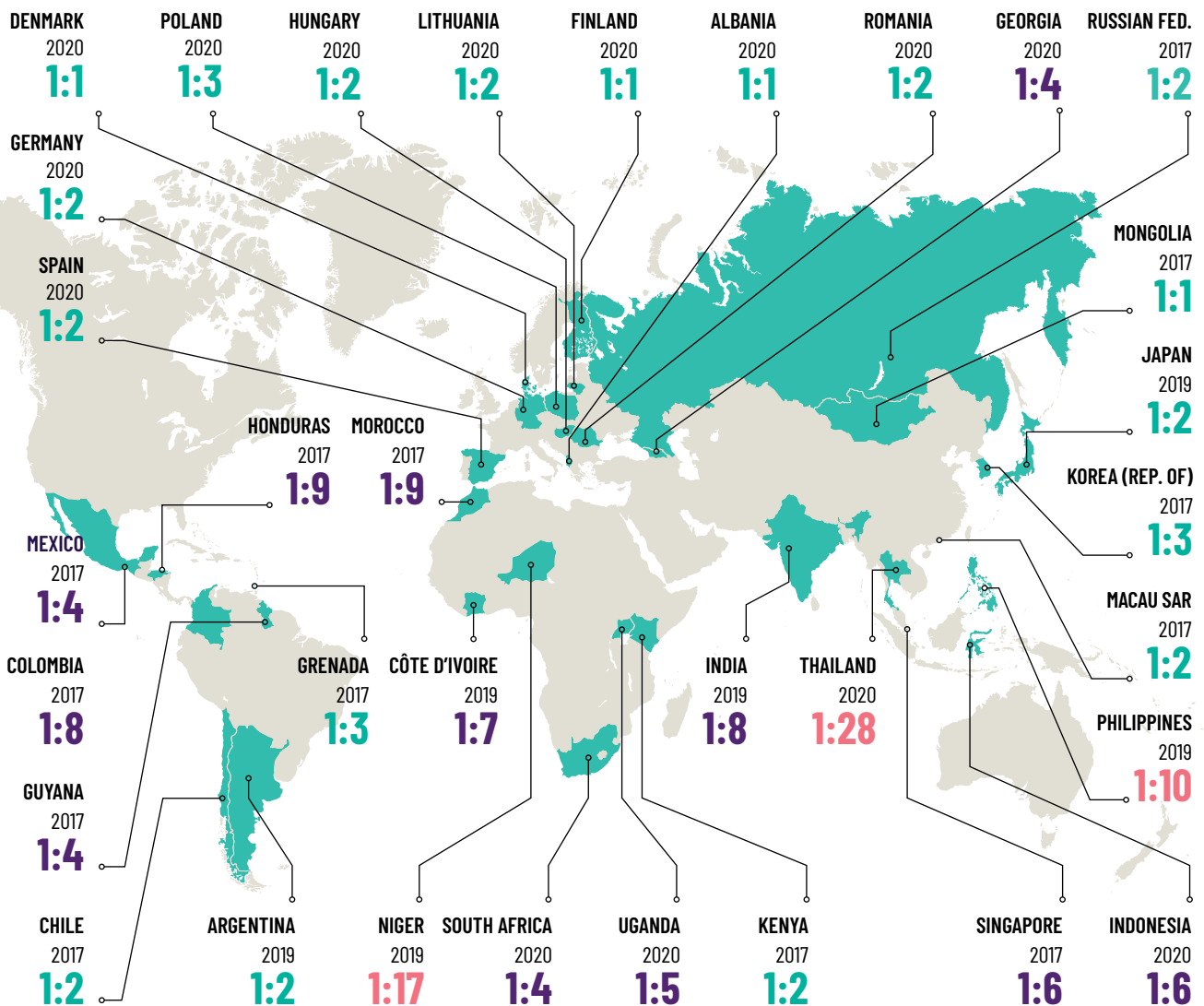
Various measures were put in place to protect prison staff from coronavirus. Training on preventative measures and basic knowledge of the virus, spotting symptoms, etc. was rolled-out in the majority of countries. Often this

was delivered with the assistance of international agencies like the International Committee of the Red Cross, UN agencies and civil society organisations, including PRI (see *Health in prison*).

The provision of equipment to prison staff (and prisons generally) such as facemasks, gloves, hand sanitiser and disinfectant solutions varied greatly from country to country. In high-income countries, medical masks were often available

**STAFF TO PRISONER RATIOS:**

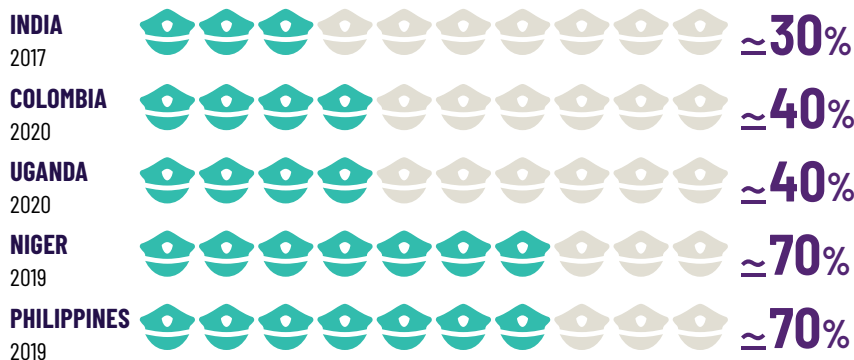
These figures are illustrative based on publicly available information. Given the discrepancies on the details of data available across countries, the figures in this visual are not intended to be used for a strict comparison. Rather they intend to illustrate the wide variance across countries in staffing levels compared to the prison population. Figures were calculated by PRI based on data from national authorities and prison services, UNODC, Council of Europe and civil society information, rounded to the nearest one.





### STAFF LEVELS: VACANCY RATES:

Based on actual number of staff compared to official targets and sanctioned numbers.



Figures from official reports of national authorities and prison administrations.

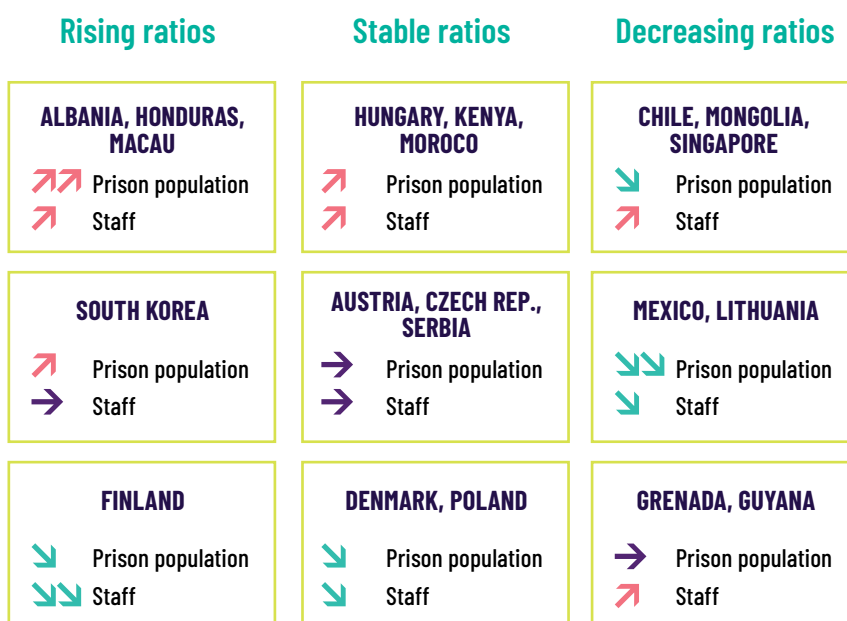
### STAFF TO PRISONER RATIO PER CATEGORY OF STAFF:



Figures from official reports of national authorities and prison administrations.

### TRENDS IN STAFF TO PRISONER RATIOS:

Changes in the number of people detained per prison staff reflect different realities across countries, as numbers of detainees and/or staff have risen, fallen or remained stable.



Figures from UNODC for 2010–2017, available at [dataunodc.un.org](http://dataunodc.un.org).

to custodial staff. Disposable full gowns and eye protection were also available in many European countries, albeit the latter usually only when coming into close contact with a suspected or confirmed case of COVID-19.<sup>267</sup> Elsewhere, access to adequate equipment for prisons remains a challenge. In Indonesia, facemasks are only provided to prison staff or detainees at high risk, for instance.<sup>268</sup> In one prison in Iran, it has been reported that medical staff went on strike in protest of a lack of preventative measures,<sup>269</sup> and similarly prison staff in Malawi protested their lack of access to PPE.<sup>270</sup>

Many penitentiary systems have adopted extraordinary working regimes to limit movement in and out of facilities and high turnover of staff. A number of countries saw longer staff shifts to reduce risks, including Kosovo, Norway, Italy and Israel. Another common strategy adopted in countries like Portugal, Spain and the US was a decision to reduce staff to decrease the number of people coming in and out of facilities. In several facilities in China, officials opted for a rotation of a 14-day work shift, a 14-day break and a 14-day quarantine.

Some prison administrations restricted movement of staff to limit transmission. In Uganda, where prison staff often live on site, they and their families were restricted from leaving the prison campus as they usually could, in some places for up to 7 months. In regions with higher COVID-19 infection rates, staff in some prisons were further confined to the offices and cells enclosure for weeks or months. In Georgia, prison staff in all facilities were 'locked down' on site, resulting in irregular working hours, increased stress and anxiety, reduced contact with family and a negative impact on relations with people detained, reportedly linked to staff exhaustion. In one prison that PRI visited, staff slept in administrative quarters or vacant cells; their meals were served free of charge by the facility and in their free time they could exercise in a gym.

Regulations for prison staff outside of work were common, including bans on travelling abroad as implemented by administrations in Singapore, Israel, Finland, Norway and Sweden.<sup>271</sup> In Morocco, prison staff were required to observe a strict stay-at-home order during their week off.

Staff shortages in prisons have been reported widely due to illness, mandatory isolation and changes in organisational structures during the pandemic. In South Africa, the correctional service had to mobilise trainees and army reserves to compensate for staff shortages. In exceptional cases on the other hand, including in the US state of Florida<sup>272</sup> and in France,<sup>273</sup> some prison officers have acknowledged that the reduced numbers of people in prison (due to releases) have made it easier to do their jobs and improved relations with people in their facility.

Short staffing is a common issue in many contexts and is especially a concern regarding specific categories of staff. Many

prison systems lack professionals in healthcare, education or social support. People in prison consequently face increasing difficulties in having basic access to healthcare, education, and social and rehabilitation support. In Sri Lanka, it was reported that the lack of doctors in prisons during the night, coupled with a shortage of staff on patrol, has led to delayed medical interventions for prisoners in need, and sometimes, deaths.<sup>275</sup> In Niger, a recent audit of the prison workforce stated that there was a lack of female staff, especially of female medical professionals.<sup>276</sup>

Where staff shortages occur, prison officials have to supervise larger groups with less resources, often for longer shifts. A 2020 study showed that all 50 US states reported understaffing and high levels of overtime.<sup>277</sup> In the state of Minnesota, a recent audit showed that short staffing had negatively affected educational, vocational and recreational activities for people in prisons and contributed to tensions and violent incidents.<sup>278</sup>

There are a range of reasons for challenges in staffing prisons with adequate levels and qualified personnel. Working conditions and low salaries are commonly reported. In Uganda in 2017, the Auditor General noted a high staff attrition rate, especially compared to a 41 per cent vacancy rate, which could partly be explained by the poor accommodation conditions provided to over 6,000 staff.<sup>279</sup> The entry salary for prison warders in 2016/2017 was UGX 367,000 per month<sup>280</sup> (around USD \$100), below the median monthly wage of public employees of UGX 457,500 that year.<sup>281</sup> In South Africa, the Department of Correctional Services noted in its latest activity report in 2019/20 that new recruits did not compensate for staff leaving through retirement or resignation, partly because of a decreasing budget allocated to salaries.<sup>282</sup> In Georgia, a recent staff survey showed that prison jobs were unattractive notably because salaries were not commensurate with responsibilities and working conditions.<sup>283</sup>

## 4.7 Data collection and transparency

Accurate data relating to prison and criminal justice systems is essential for law- and policymakers and actors at all levels in order to identify gaps and develop and implement effective systems. Data on prisons, from basic information such as number of detainees, levels of capacity and staff numbers, are not always captured or transparently available. This is particularly the case in low-income countries or fragile and conflict-affected settings where a lack of resources is a challenge. In Sri Lanka, for instance, prison records remain mostly manual and differ across prisons.<sup>284</sup> The digital divide is another factor contributing to shortcomings in data collection (see *Role and use of technologies*).

Burdensome or cumbersome procedures, and decentralised systems, can also be a challenge

to data collection and transparency – as well as a lack of political prioritisation. In the US, observers noted the growing delays in the publication of national prison data, partly explained by the Bureau of Justice Statistics' (BJS) task of collecting and analysing data from the country's particularly decentralised system while being underfunded and understaffed.<sup>286</sup>

The accessibility of data can be made more complicated where various aspects of prison management are treated by different arms of governments or agencies, resulting in data being scattered across different ministries and services. In the Philippines, for example, prisons are managed by the Bureau of Corrections under the Department of Justice, while pre-trial detention facilities are under the responsibility

of the Bureau of Jail Management and Penology, in the Department of the Interior and Local Government.

The quality of data, including whether it is disaggregated and adequately comprehensive, is often impacted by national specificities. In France, legislation heavily limits and supervises data collection on ethnicity and religion, which also applies in relevant data on prisons. In other countries, specific groups such as LGBTQ+ people are excluded entirely from prison population data (see *LGBTQ+ people in prison*).

Traditionally prisons have been shrouded in secrecy as closed institutions. While external monitoring, access to service providers and civil society to prisons has become the norm in many places, it is not the case everywhere particularly in non-democratic

states. Where authorities operate prisons with a 'state secret' approach, civil society and other non-state institutions frequently seek to fill the gap by monitoring and publishing information gathered. One example is in Iran, where the NGO, Abdorrahman Boroumand Center for Human Rights in Iran (ABC), documented and published a report with information gathered on the response to the COVID-19 pandemic in the country's prisons. The government had kept data on the number of people who had contracted the virus, including fatalities, a secret.<sup>286</sup>

The coronavirus pandemic has reiterated the need to have data that is current, accurate, and disaggregated by age, sex, ethnicity and other factors. As the virus spread rapidly in detention facilities, authorities needed to respond

quickly to protect specific cohorts of the prison population. The availability of accurate and disaggregated data facilitated the inclusion of at-risk groups in emergency release measures or changes to prison regimes, such as in Ireland.

The 'Covid Data Transparency Index', which examines 100 countries on 40 different aspects of their COVID data, ranked only four countries an effective 5-star rating and 63 with 2-stars or worse. The Index published in December 2020 noted 'huge differences in countries' coverage, management and usage of national pandemic data', and that there have been clear challenges faced by governments in measuring the true level of infections.<sup>287</sup>

This situation is exacerbated when it comes to detention settings. Aside from insufficient testing (see

*Health in prison*), transparency on COVID-19 has been generally poor. In Mexico, there has been a lack of public information released by prison authorities on not only the number of infections and deaths but what protocols or measures have been adopted.<sup>288</sup> A similar approach of not disclosing data has been an issue particularly in Africa where there is a general lack of data on prisons. In Cameroon, for example, data on the number of cases and deaths in prisons remains unpublished.<sup>289</sup> A data gap has also been seen in regard to releases; research on 53 jurisdictions found that about three-quarters of governments failed to publish any official data on the number of people released from prison in response to COVID-19.<sup>290</sup>

## 4.8 Violent extremism and prevention of radicalisation

Violent extremism has been a major global concern and a priority issue in many countries over the past two decades. Efforts to prevent and counter it have become a core component of policies and practices at the national, regional and international levels.

Analysis of the UN Counter-Terrorism Committee Executive Directorate (CTED) found that the COVID-19 pandemic has diverted attention of policymakers and resulted in the reallocation of resources away from counter-terrorism or countering violent extremism responses – not only during the pandemic but longer-term. They explained that there has been a shift of efforts from community policing to lockdown enforcement and suspension of many activities which contributed to longer-term violent extremism prevention efforts.<sup>291</sup>

The COVID-19 related restrictions in prisons have resulted in the suspension of programmes in this

area, especially where these relied on external organisations or actors or where programmes involved one-to-one in-person settings.<sup>292</sup> Some were able to continue in an adapted format, for example by bringing training initiatives and support to prison authorities on preventing violent extremism to an online platform.<sup>293</sup>

Prison staff, probationers, and experts in the field of countering violent extremism have reported that the pandemic, and particularly the restrictions in prison settings, may fuel drivers of violent extremism.<sup>294</sup>

People in pre-trial detention under terrorism-related charges (or those convicted) have been excluded from almost, if not all, prisoner release schemes. This has been the case also for people convicted of terrorism offences with underlying medical conditions, for example, in Turkey.<sup>295</sup>

With no internationally agreed definition of terrorism, national lawmakers continue to regulate it

with vague and wide encompassing laws, leading to abuse of such laws and human rights violations. Most recently Switzerland received widespread criticism from the UN about the new definition of terrorism proposed in a draft counter-terrorism law that could potentially be applicable to activities 'not of terrorist nature'<sup>296</sup> and could set a 'dangerous precedent'.<sup>297</sup>

Counter-terrorism laws and tools have been used by authorities in fighting COVID-19. In April 2020, the US Department of Justice announced prosecutors should consider coronavirus as a 'biological agent' and charge certain acts related to COVID-19 as federal crimes of terrorism.<sup>298</sup> Two people were charged with terrorism offences when they claimed they were intentionally trying to spread the virus while being arrested.<sup>299</sup>

Maximum sentences continue to be handed down for cases of terrorism offences. In August 2020,



the man that committed attacks in two mosques in Christchurch, New Zealand, killing 51 people received the first life imprisonment sentence without parole in the country. In Germany, a right-wing extremist was sentenced in January 2021 to life in prison, with an unspecified period for parole—the most severe applicable sentence—for the murder of a local official. The average prison sentence for terrorist offences in the European Union in 2019 varied from an average of 20 years in Greece, compared with two years in Lithuania, Sweden and Poland.<sup>300</sup>

In many countries, there were new reports over the past year that people imprisoned for violent extremist or terrorist offences often face harsher treatment with stricter regimes and discriminatory practices – exacerbated in some cases by COVID-19 measures. In France, a report found that such detainees are more often subject to body searches and less likely to receive sentencing adjustments.<sup>301</sup> Amnesty International has reported that, in Egyptian prisons, members of the Muslim Brotherhood (classified as a terrorist organisation in the country since 2013) were specifically targeted by prison authorities and more at risk of harsher punitive treatment, including the intentional lack of healthcare that has allegedly led to the death of several people.<sup>302</sup>

## Part five

# Role and use of technologies

The past year has seen rapid advances in the use of technological solutions in prisons and wider criminal justice systems globally. As a result of the COVID-19 pandemic, many countries turned to digital and other tools as a means of reducing the risk of transmission in places of detention through human contact and easing the burden on prison and probation staff. Video visitation replacing in-person visits was initiated or expanded in prisons across the globe (see *Contact with the outside world*). Online access for training and education purposes in prisons accelerated as a result of restrictions imposed during the pandemic, and some prisons are training detainees for employment in the tech sector (see *Rehabilitation and reintegration*).

Increased reliance on tech solutions to mitigate the impacts of restrictive regimes has, however, deepened the digital divide. While well-resourced prison systems like Sweden were able to increase bandwidth and purchase new equipment as required, lack of infrastructure or resources in many countries meant people in prison could not benefit from technologies. In Kenya, probation officers were challenged by an insufficient number of laptops, inadequate internet access and difficulties to speak with clients, some of whom had no phone contact and others held in pre-trial detention centres had to queue to access teleconferencing.

Some prison systems looked to new technologies as a means to combat the spread of coronavirus.

A number of US jails introduced UVC robots for disinfection in 2020. The devices emit high-intensity ultraviolet light – a technology typically used by hospitals that can destroy coronaviruses – and have been used to disinfect everything from cells to eating utensils.<sup>303</sup> In China, infrared portals were introduced to check the temperature of each person before entering the prison, and similar devices were also placed inside the facilities. Robots to measure temperature were introduced in Hong Kong prisons, reducing contact between staff and detainees. They have also used air sterilizers, disinfection sprayers and high-temperature steam generators.

Remote hearings and videoconference courts have been used in countries like Albania, Peru, India, Myanmar, Morocco, Kenya and Nigeria, often for the first time. In Bangladesh, for example, virtual hearings were approved through a Supreme Court Ordinance which allowed bail applications to be made electronically, and technical support was provided by the UN Development Programme. In Tunisia, remote hearings were permitted by a 2020 ministerial decree amending the Code of Criminal Procedure and have been in use in some jurisdictions, supported by funding from the United States.<sup>304</sup>

Where virtual courts existed prior to the pandemic, their use expanded significantly. In prisons in Ireland, where the first case by video-link was heard in 2009, its use almost doubled in 2020 from 30 to 58 courts,

## Risk of discrimination and racial bias in algorithmic profiling

In November 2020, the UN Committee on the Elimination of Racial Discrimination in its guidance to combat racial profiling, highlighted the serious risk posed by the increasing use of algorithmic profiling in judicial systems. Such tools are currently used for a variety of purposes including to apply a sanction or decide whether someone should be sent to prison, be released on bail, or receive another punishment. Authorities gather information on the criminal history of the individual, their family, friends and social conditions, including their work and academic history, in order to assess the degree of 'danger' posed by the person from a score provided by the algorithm, which usually remains secret.<sup>305</sup>

The Committee highlighted the danger of reinforcing existing racial biases and aggravating discriminatory practices when big data and algorithmic profiling is used to determine the likelihood of criminal activity. For example, historical arrest data about a neighbourhood may reflect racially biased policing practices; this data can increase the risk of over-policing in the same neighbourhood, which may in turn lead to more arrests, creating 'a dangerous feedback loop'.<sup>306</sup>

SAFE MODE

Always activate Safe Mode before logging in.  
Step 1: Turn phone on.  
Step 2: When it says "Do Not Disturb" tap "Do Not Disturb".  
Hold the volume down button until the slider appears. It should say "Do Not Disturb" in the bottom left corner.



**Increased use of digital technologies has mitigated the impacts of restrictive regimes during the pandemic, but also deepened the digital divide.**

Kiosks in East Jersey State Prison, USA.



with more than twice the number of cases heard by video-link than the previous year.<sup>307</sup> In Croatia, the use of video-link from prisons to courts and state attorneys almost tripled from January to July 2020 to 1,431 uses, compared to 573 in the same period in 2019.<sup>308</sup>

The use of online hearings for criminal proceedings has raised concerns regarding due process, ability to understand procedure, and access to and ability to confidentially communicate with legal representation. Some judges have raised objections to Turkey's e-hearing system, for example, cautioning that it may put some fair trial safeguards at risk. In countries where remote hearings were implemented as emergency workarounds without extensive testing or training, issues arose including arbitrary time limits on witness testimony to comply with free video conference software and poor connection quality. In Tunisia for example, the International Legal Foundation deployed two defence lawyers, one with the judge and one with the accused in custody, to facilitate lawyer-client contact while ensuring effective communication with the courtroom.

International bodies have called for remand hearings in particular to be held in person whenever possible. The Inter-American Commission on Human Rights called for the physical presence of persons deprived of liberty in custody hearings in Brazil, warning that the use of video conferencing for custody hearings could negatively affect the detection of signs of torture and ill-treatment and could cause the persons deprived of liberty to feel intimidated or coerced.<sup>309</sup>

Technological solutions have long been employed by prisons and probation services for security, with new examples in the past year. Hong Kong's first smart prison is set to open in 2021, after more than 40 trials were conducted in other correctional facilities. Biometric technology, facial recognition and video analytic monitoring will be used to detect changes in behaviour and send alerts to staff, and drones and robotic guards will be introduced to frequently patrol the prison. Among new tools in development in the US is an Artificial Intelligence-enhanced GPS tracking device like an ankle bracelet that includes information on how risk differs across various spaces for an individual client. The device could intervene independently

of any human action, for example encouraging the person to leave a location.

Automation and other technological advances can significantly ease the burden on prison staff, although the use of such technology needs to be balanced with the necessity for critical interaction between prison staff and people detained. An evaluation of digital technology in prisons in England and Wales in 2020 found a significant benefit to staff workloads with the introduction of self-service kiosks and in-cell telephony and laptops. Allowing detainees to self-manage routine tasks saved an average 91 hours of staff time per prison per week – the equivalent of two prison officers working a full week – and reduced administrative follow-up exercises by 82 per cent.<sup>310</sup> A prison in Australia has tested an autonomous vehicle to patrol the perimeter, which performed the work of two prison officers who check the perimeter three times a day. The vehicle is equipped with high-definition cameras, night vision, a collision avoidance system, incident alert lighting and a two-way intercom, and will be integrated with airborne drones.

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## PART ONE

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## PART THREE

## Prison populations

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## PART FOUR

### Prison management

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## PART FIVE

## Role and use of technologies

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### **About Penal Reform International**

Penal Reform International (PRI) is a non-governmental organisation working globally to promote criminal justice systems that uphold human rights for all and do no harm. We work to make criminal justice systems non-discriminatory and protect the rights of disadvantaged people. We run practical human rights programmes and support reforms that make criminal justice fair and effective.

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