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Deaths in prison

Examining causes, responses, and prevention of deaths
in prison worldwide



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Introduction

Mortality rates are up to 50% higher for people in prison than for people in the wider community.¹ People die in prison as a result of a wide range of causes including torture and other forms of violence, self-harm, and environmental factors like overcrowding, poor conditions of detention and inadequate access to healthcare. This raises serious concerns for the protection of human rights, public health, and prison management.

States bear a heightened responsibility for people in prison because when they deprive someone of their liberty, they assume a duty of care, in particular to protect the right to life and other human rights. As part of this, there is an obligation not only to report and investigate deaths in custody, as well as disappearances and serious injuries, but also to prevent violence and ill-treatment in prisons and ensure that conditions of detention meet international human rights standards, such as providing healthcare equivalent to that available in the community.

Data remains a key problem in understanding and addressing deaths in prisons. Public availability of accurate and reliable data on incidents of violence and deaths in police custody and prisons is key in the interest of transparency and facilitating effective investigations.²

This briefing draws on information from survey responses from a variety of stakeholders (people working in prison administrations, prison inspectors and monitors, academics and non-governmental organisations) in 25 countries covering all regions, as well as 19 European prison administrations, following a call for information by PRI.³

This briefing is a call to action for the international community and national actors to strengthen their approach to deaths in prisons,⁴ to take pro-active measures to prevent loss of life and, when deaths do occur, to respond appropriately and conduct robust investigations in line with international human rights standards to identify any systemic concerns and prevent future harm. Based on research conducted by PRI and the *prison*DEATH team,⁵ it examines the key challenges in definitions and data on deaths in prisons, the leading causes of death across regions, and what happens in practice to prevent, manage, and investigate deaths in prison. Aimed to inspire action, **it includes some recommendations to guide human rights-based responses to deaths in prison.**

“

Most deaths in custody are preventable through the adoption of relatively simple and inexpensive human-rights driven measures.

Morris Tidball-Binz, United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, at the 76th session of the UN General Assembly, 26 October 2021

”

1. UN Human Rights Council, *Human rights in the administration of justice: Report of the United Nations High Commissioner for Human Rights*, A/HRC/42/20, 21 August 2019, para. 30.

2. UN High Commissioner on Human Rights, *'Human Rights in the Administration of Justice: Violence, Death and Serious Injury in situations of deprivation of liberty'*, A/HRC/42/20, 30 July 2019.

3. Survey responses were collected from Argentina, Australia, Austria, Brazil (Mato Grosso do Sul), Bulgaria, Cameroon, Canada, Central African Republic, Chile, Ecuador, England & Wales, Finland, Georgia, Germany, India, Iran, Ireland, Italy, Kazakhstan, Pakistan (Sindh, Punjab), Scotland, South Africa, Switzerland, Turkey, and the US. Although for Brazil and Pakistan information is only available for individual states, for the purpose of analysis they are treated as representative for the country. The survey is available at www.penalreform.org/wp-content/uploads/2022/11/Survey_Deaths-in-Prison-Worldwide.pdf. Responses from the European prison administrations are available at www.europris.org/epis/kms/?detail=471.

4. The term 'prisons' in this context is used to describe all places where people are held in detention pre-trial and post-conviction.

5. Dr Philippa Tomczak (University of Nottingham, UK), Dr Róisín Mulgrew (University of Galway, Ireland), and Dr Catherine Appleton (St Olavs University Hospital and the Norwegian University of Science and Technology, Norway).

Deaths in prison: an incomplete, complex picture

Defining deaths in prison

There is no internationally recognised definition of a 'death in custody' which would, among other things, allow accurate, comparable data to be collated and analysed.⁶ In states where there is a definition in either law or policy some of the boundaries of what is included may be unclear or contested.⁷

Classification is more straightforward where the death has occurred while the deceased was under a legal authority to be detained and within the confines of a detention facility, such as a prison. Some countries only classify deaths which occur in a detention facility as a death in custody, such as Italy. Other countries also include deaths in a wider range of situations such as:

- Deaths that occur during transportation or people that have been transferred to a hospital or hospice in the community as part of their care while under a prison sentence or pre-trial detention (such as Argentina, Georgia, Pakistan, Scotland, Spain and the US)
- Deaths while on temporary leave (Ireland includes people on temporary release or unlawfully at large; England and Wales includes people on temporary leave for medical reasons only)
- Deaths which occur shortly after the person has been released from prison (within one month of temporary release in Ireland, and up to 10 days after release in Turkey).

States should define a 'death in custody' in broad terms and explicitly include all persons who die while serving a prison sentence or in pre-trial detention, or immediately after release from custody. It should include persons released from custody to continue serving their sentence in the community and those on temporary release (including 'semi-open' regimes where they go out of the prison to work during day) if the death occurs outside the confines of the prison.

Deaths in prison: a data 'blind spot'

The collection and publication of accurate, reliable data on deaths in prison is critical to inform policy and practice to understand the causes, prevent avoidable deaths and respond adequately when they do occur.

For this reason, international standards require states to record and investigate all deaths in prison (see *International standards* below). However, among the 25 countries included in PRI's survey, official information relating to deaths in prison was published in just 11 countries.⁸ In some cases, data is simply absent or highly unreliable. Academia or civil society organisations sometimes aim to fill this gap by collecting information on, or estimating the number of, deaths in prison.

Common reasons for the lack of data include a lack of resources or capacity to collect and share data, or a general lack of transparency or political will. Prison administrations, for example, may not want to share data on deaths in their facilities to avoid scrutiny. The lack of a common definition (as discussed above in *Defining deaths in prison*) means that classification, practices on recording prison deaths and the capacity to collect and analyse data varies significantly across jurisdictions. It can also take time to investigate and therefore classify a death, and classifications can change over time.

A range of bodies collect and publish information on prison deaths. These include:

- Justice ministries (e.g. in England and Wales, Italy, and the US),
- Prison oversight bodies such as Ombudspersons offices, National Preventive Mechanisms (NPMs), or Inspectorates of Prisons (e.g. in Argentina, Canada, Ireland, and Italy),
- Governmental research or statistics agencies (e.g. in Australia and Switzerland), or
- The prison service itself (e.g. in Scotland).

6. Tomczak, P. and Mulgrew, R., 'Making prisoner deaths visible: Towards a new epistemological approach', 2022, available at: www.researchgate.net/publication/365427889_Making_prisoner_deaths_visible_Towards_a_new_epistemological_approach.

7. In at least 9 countries, no information could be found on what is classified as a 'death in prison' (Austria, Canada, Central African Republic, Chile, Ecuador, India, Kazakhstan, South Africa, and Switzerland).

8. Official information available in Argentina, Australia, Brazil, Canada, England and Wales, Georgia, Ireland, Italy, Scotland, Switzerland and the US through official government sources, oversight bodies, governmental research institutions or the prison service.

The quality of data on prison deaths varies significantly. Poor or complex data management systems can lead to inaccuracies and undercounting. This is often the case where different authorities are responsible for different facilities or regions and may collect different information and/or may not be effectively centralised. For example, an academic review published in 2021 of deaths in custody that occurred between 2009–2018 in one Brazilian state, found that the actual number of deaths was 2.2 times higher than officially reported for the period.⁹ In the same year, another academic review in India found that, despite a legal requirement to report every custodial death to the National Human Rights Commission, in 2015 ‘only 31 out of 97 custodial deaths were reported, and only 26 of them were submitted for autopsy’.¹⁰

Since the current data on deaths in prison in many countries is incomplete or unreliable, all statistics on deaths in prison must be handled with caution. Where data is absent, inaccurate or not transparent, this presents huge challenges for authorities in terms of informing policy and practice, forward planning, resource allocation and making decisions on the health and welfare of people detained and staff.

Data on prison deaths must be disaggregated by age, sex, ethnicity, and other factors in order to identify and address disparities in the number, causes or circumstances of death among different segments of prison populations.¹¹ PRI’s research revealed a sizeable data gap in the availability of disaggregated figures on deaths among men and women in prison (available in 15 out of 25 countries in our survey¹²) and deaths of transgender persons (available in two countries: Australia and Scotland).

Data disaggregation on deaths in prison by ethnicity is particularly important in efforts to address systemic discrimination in a context where racial disparities across many parts of the prison system, from access to healthcare to experiences of violence, are seen in the causes and circumstances of death. Some countries in Europe prohibit the collection of data on race or ethnicity by criminal justice systems as to do so is perceived as discriminatory,¹³ which causes a major barrier to addressing discrimination. In England and Wales, a report by the charity INQUEST on deaths of racialised people in prison from 2015 to 2022 highlighted inappropriate use of segregation, racial stereotyping, neglect of physical and mental health, failure to respond to warning signs, and bullying and victimisation of racialised people.¹⁴ An analysis by journalists in Australia of deaths in custody over 10 years found that while medical issues were the most common cause of death in custody for both Indigenous and non-Indigenous people, Indigenous people who died in custody were three times more likely to not have received all required medical care prior to death, according to coronial reports. Coroners were also twice as likely to find that police, prisons or hospitals failed to follow all of their own procedures in cases involving an Indigenous death in custody, compared to a non-Indigenous death in custody.¹⁵

The COVID-19 pandemic exposed the extent of the data gap in deaths in prison globally. Inadequate testing, data collection and transparency in places of detention has meant that deaths due to COVID-19 in prisons globally (like other infectious diseases) are underreported. Publicly available disaggregated data on the impact of COVID-19 among prison populations is still lacking, particularly in Africa where there is a general lack of data on prisons. In some countries, COVID-19 data remains effectively a state secret; in Cameroon, for example, data on the number of cases and deaths in prisons remain unpublished.¹⁶

9. Liu, Y. et al., ‘All-cause and cause-specific mortality during and following incarceration in Brazil: A retrospective cohort study’, *Plos Medicine*, 17 September 2021.

10. Ram, U. and Kumar, P., ‘Incarcerated population in India’, *International Journal of Prisoner Health*, Volume 17 Issue 2, 28 May 2021, pp. 171–186.

11. Penal Reform International, *Global Prison Trends 2021*, May 2021, pp. 28, 40.

12. Figures disaggregated by sex were available in Australia, Austria, Brazil (Mato Grosso do Sul), Bulgaria, Cameroon, Chile, England and Wales, Georgia, Germany, Iran, Ireland, Pakistan (Sindh, Punjab), Scotland, Turkey, and the US.

13. Such prohibitions have been noted in, for example, Finland, France, Hungary, Portugal, and Slovakia.

14. INQUEST, *Deaths of racialised people in prison 2015–2022: Challenging racism and discrimination*, October 2022.

15. ‘The facts about Australia’s rising toll of Indigenous deaths in custody’, *The Guardian*, 8 April 2021, www.theguardian.com/australia-news/2021/apr/09/the-facts-about-australias-rising-toll-of-indigenous-deaths-in-custody.

16. Penal Reform International, *Coronavirus – Preventing harm and human rights violations in criminal justice systems*, 14 July 2020, p. 11.

Causes of deaths in prisons around the world

The way deaths are classified varies across jurisdictions and there are different ways of capturing legal determinations and medical causes. Similarly, varying medical and legal processes to certify, investigate and determine the cause of deaths are employed (including medical examiners, through autopsies or post-mortems, and inquests).

Death by so-called 'natural causes' officially account for many deaths in prison, yet the term is not clearly defined. It seems to be a catch-all term conflating different causes of death between old age, illness, and cardiovascular diseases, which is interpreted differently across jurisdictions and with regional variations.

'Non-natural' deaths may include more specific classifications including homicide, suicide or self-inflicted death, accidental causes, drug-related deaths and deaths arising from excessive use of restraint, or torture or other ill-treatment. Deaths may initially be classed as 'undetermined' or similar where the circumstances are unclear, pending an investigation.

Misclassification of causes of prison deaths remain a serious human rights concern. Deaths in prison may be inaccurately classified due to lack of or inadequate inquiry or investigation by authorities, or in an effort to avoid accountability. For example, in 2022, the UN Committee against Torture noted with concern that Cuba recorded an average of 100 deaths in custody per year without determining if the authorities were responsible for any of them.¹⁷ Misclassification of the causes of deaths in prison not only calls into question the accuracy of data but may also affect whether or what type of investigation is carried out, and consequently the type of accountability and prevention measures adopted. It also impacts negatively on the grieving loved ones of the deceased.

In addition to specific causes of death, there are many other factors or circumstances that may contribute or be linked to how or why a person dies in prison. Structural factors that can contribute to unnecessary or premature deaths in prison include the prison environment, poor conditions of detention (which

may be linked to severe overcrowding), disciplinary measures (including solitary confinement), neglect, inadequate access to healthcare (including long wait times and delayed transfers to hospital), and discrimination against individuals or groups. These factors may also be linked to broader societal problems. Corruption, for example, within a given society can permeate and influence the culture of its prison system and facilitate access to weapons, drugs and movement within and between prisons by gang leaders.¹⁸ Environmental and transnational factors increasingly pose serious threats to life in prison, including extreme weather caused by climate change, global pandemics, and military conflict.

In this section we explore a number of specific causes of deaths in prisons and some of these relevant factors, either because they are common across many countries or have not received adequate attention to date.

Violence, torture, and lack of security

Prisons remain violent places, with regular reports of large-scale prison unrest (often referred to as riots), gang-related violence, abuse of vulnerable individuals, torture, ill-treatment and the use of excessive force against people in prison. Certain individuals or groups face higher risk of violence in prison, including older persons, women, ethnic and racial minorities, foreign nationals, members of the LGBTQ+ community, people in pre-trial detention or those who have recently been admitted to prison.

Inter-prisoner violence constitutes a common cause of death in prisons, often due to the presence or activities of gangs or sub-cultures in prisons, chronic levels of overcrowding, and self-governance models in place. This has led to notable differences between countries and regions. While in Europe, fatalities from prison unrest, riots or protests are quite rare,¹⁹ Latin American countries report comparatively high proportions of deaths in prison due to violence, particularly related to gangs and organised crime groups. Authorities in Brazil, for example, reported that

17. UN Committee against Torture, *Concluding observations on the third periodic report of Cuba*, CAT/C/CUB/CO/3, 9 June 2022, para. 30.

18. Róisín Mulgrew, 'Prisoner Lives Cut Short: The Need to Address Structural, Societal and Environmental Factors to Reduce Preventable Prisoner Deaths', Working paper on file with PRI.

19. One exception was in Italy in March 2020 when protests in response to the new COVID-19 restrictions resulted in the death of 13 detained people and injuries among scores of people including prison staff. Penal Reform International, *Global Prison Trends 2021*, p. 34.

about half of the 565 individuals who died while deprived of liberty in 2014 were intentionally killed.²⁰ In Ecuador, rival gang members fighting across three prisons in February 2021 led to 79 fatalities.²¹

Regaining control after a riot through force, the use of chemical irritants (such as tear gas or pepper spray), and instruments and positions of restraint present a serious risk of death to detained persons.²² Excessive use of force by the authorities in responding to incidents of unrest in detention facilities has led to fatalities of detainees in many countries including Haiti, Iran, Sierra Leone, Sri Lanka, and Venezuela in recent years.²³ In Colombia, 24 detainees were killed as police responded to a protest against inadequate prison conditions in a Bogota jail in 2020. A review of the autopsy reports by the Independent Forensic Expert Group and the International Rehabilitation Council for Torture Victims found no evidence that the gunshots were intended solely to injure individuals instead of killing them.²⁴

Torture and ill-treatment of people in prison persists in many countries around the world, with frequent reports of torture resulting in loss of life.²⁵ This is particularly the case in contexts of conflict or post-conflict, where there is a lack of rule of law, or where prisons are closed institutions with little or no external monitoring. Deaths may also occur due to a lack of healthcare for injuries stemming from torture. For example, there have been allegations that causes of death in custody include torture and the lack of healthcare in countries including Iraq and State of Palestine.²⁶

Health-related deaths

Infectious diseases

Prisons are high risk settings, prone to rapid outbreaks of infectious diseases such as Tuberculosis (TB), cholera, HIV, Ebola, and COVID-19. This is due to a combination of poor health status of people coming into prison, late diagnosis, inadequate treatment, overcrowding, poor ventilation and regular prison transfers. Rates for TB and HIV/AIDS among people in

prison are high. Since 2017, the estimated prevalence of HIV among people in prison has increased from 3.8% to 4.3%, meaning that people in prison are six times more likely to be living with HIV than the general population;²⁷ infection rates for TB are between 10 and 100 times higher than in the community.²⁸ PRI's survey suggests that TB accounts for a high proportion of deaths in some countries such as Cameroon and Kazakhstan.

COVID-19 contributed to many deaths in prison but global data on COVID-19 infections and mortality rates in prisons were only collected until mid-2021 and do not reflect the full picture. While the full impact of further waves and variants of COVID-19 on fatalities among people in prison and staff working in detention facilities globally remains unclear, national statistics suggest that it varies widely with some countries' prison death rates from COVID-19 being higher than in the community²⁹ and others being equal to or lower.

Non-communicable diseases

Non-communicable diseases such as cardiovascular diseases and cancer are common causes of so-called 'natural' deaths in prison. Our research indicated that higher-income countries cited 'natural causes' as the main cause of prison deaths (Australia, Canada, England and Wales, Italy, Scotland and South Africa) compared to countries in Latin America and South Asia which cited 'illness' and 'old age' as the main causes of death (Argentina, Chile, Ecuador, India, Pakistan, Turkey).

Prisons are often constructed in unhealthy environments, including contaminated land or toxic sites, which can contribute to death. Exposure to serious environmental hazards such as air pollution or contaminated water supply due to the location of prisons has been identified as a cause of serious illness and deaths among people in prison, creating 'lower life expectancy and a litany of illnesses'.³⁰ For example, in the US state of California, nine state prisons are located in settings endemic for the Valley fever fungus, which can cause systemic disease and death. Risk of Valley fever is so great at two state prisons that only people

20. UN Committee against Torture, *Visit to Brazil undertaken from 19 to 30 October 2015: observations and recommendations addressed to the State party*, CAT/OP/BRA/3, para. 35.

21. Penal Reform International, *Global Prison Trends*, May 2021, p. 35.

22. UN High Commissioner on Human Rights, *Human Rights in the Administration of Justice*, A/HRC/42/20, 30 July 2019.

23. Penal Reform International, *Global Prison Trends*, May 2021, pp. 34-35; UN Human Rights Council, *Human rights in the administration of justice - Report of the United Nations High Commissioner for Human Rights*, A/HRC/42/20, August 2019, para. 9.

24. 'Colombia: New Evidence Prisoners Were Intentionally Shot', *Human Rights Watch*, 24 November 2020, www.hrw.org/news/2020/11/24/colombia-new-evidence-prisoners-were-intentionally-shot.

25. See for example, 'Prisoner allegedly 'tortured to death' at Egyptian maximum-security prison amid official denial', *The New Arab*, 25 August 2022, english.alaraby.co.uk/news/prisoner-allegedly-tortured-death-egypt-prison; 'Maldives: Investigate death of prisoner and allegations of torture in custody', *Amnesty International*, 20 September 2021, www.amnesty.org/en/latest/news/2021/09/maldives-investigate-death-in-custody-and-allegations-of-torture-on-individuals-in-custody; 'Inmate tortured to death in Turkish prison, brother claims: report', *Stockholm Center for Freedom*, 26 October 2020, stockholmcf.org/inmate-tortured-to-death-in-turkish-prison-brother-claims-report.

26. UN Committee against Torture, *Concluding observations on the second periodic report of Iraq*; CAT/C/IRQ/CO/2, para. 28; UN Committee against Torture, *Concluding observations on the initial report of the State of Palestine*, CAT/C/PSE/CO/1, para. 42.

27. Penal Reform International, *Global Prison Trends 2022*, May 2022, p. 32.

28. Penal Reform International, *Global Prison Trends 2019, Special Focus Healthcare in Prison*, May 2019, p. 2.

29. Braithwaite, I. et al., *High COVID-19 death rates in prisons in England and Wales, and the need for early vaccination*, *Lancet Respir Med.* June 2021, pp. 569-570.

30. 'Prisons are a daily environmental injustice', Leah Wang for *Prison Policy Initiative*, 20 April 2022, www.prisonpolicy.org/blog/2022/04/20/environmental_injustice.

who have previously been exposed to the fungus and who do not have specific underlying health conditions are allowed to be incarcerated there.³¹

Malnutrition

There have been alarming reports in a number of countries of malnutrition leading to deaths of detainees, including in Venezuela, where at least 8 people died of malnutrition in pretrial detention centres in one year.³² In June 2022, it was reported that 8 detained persons had starved to death in an overcrowded and oppressively hot prison in Haiti after it ran out of food.³³ These deaths were foreseeable, however, as a UN report to the Security Council had noted that 54 detained people had already died from malnutrition in the previous few months in a food, water and medicine crisis;³⁴ this followed a previous report that outlined how the fuel crisis in 2021 had meant that all Haitian prisons were struggling to provide meals to people in prison resulting in 'several cases of severe malnutrition'.³⁵ The lack of a balanced, nutritious diet in prisons is also a contributing factor to deaths from non-communicable diseases.

Old age

The increase in the number of older persons in prison in many, notably high-income, countries has had an impact on the number and manner of deaths in prison. Older persons in prison often face chronic medical conditions and health issues such as hypertension, diabetes, Parkinson's disease, pulmonary disease, Alzheimer's, strokes and cognitive impairment. Poor prison conditions are likely to exacerbate these existing conditions. Those who enter the later stages of chronic or terminal illness require specialised end-of-life care and will have a variety of needs, and prison staff are usually not adequately equipped to respond.³⁶

Many older persons, particularly those that have spent a long time in prison, no longer pose a risk to society.

Early and compassionate release should be in place and used systematically to avoid older persons ending their lives and dying in prison. For those who are detained, prison authorities should take measures to ensure that terminally ill patients receive treatment

and care in a way that fully respects their human rights.

For example, in 2018, the *Dying Well in Custody Charter* was launched in England and Wales which sets out standards and guidelines for palliative and end-of-life care in prisons.³⁷

Drug-related deaths

In many countries, data on drug-related deaths in prison is not available (and often not in the community either), with at least 40 countries around the world publishing little or no data.³⁸ This may be impacted by punitive or prohibitionist drug laws and a consequent unwillingness by authorities to admit that drugs have entered prisons.

Where data is available, largely in Europe and North America, deaths as a result of drug overdose or linked to drug use are frequently reported in prisons, including in Canada, Scotland and the US. In Ireland, a five-year retrospective study published in 2018 found drug use to be a major contributory factor to deaths in prison, with 26 unnatural deaths (68%) associated with drug use. Post-mortem toxicology reports showed all deaths by overdose (16), 53% of self-inflicted deaths (8 of 15), and 29% of deaths from other causes (2 of 7) were positive for illicit drugs.³⁹ This is in a context where, according to the UN Office on Drugs and Crime (UNODC), an estimated one in three people in prison have used an illicit substance at some point while incarcerated (based on data from 32 studies) with 9.6% reporting heroin use at some point while incarcerated.⁴⁰

Despite this, access to voluntary drug treatment and comprehensive harm reduction measures remain wholly inadequate in prisons worldwide. Only 9 countries operate Needle and Syringe Programmes (NSPs) in prisons,⁴¹ despite at least one NSP operating in the community in 92 countries. Canada has the world's only prison-based drug consumption room, while Opioid Agonist Therapy (OAT) programmes are provided in prisons in 59 countries (and in the community in 87 countries).⁴²

Prison authorities should collect and publish data on drug-related deaths in prisons and support implementation of evidence-based harm reduction services in prisons to save lives.

31. Prison Law Office, *Valley Fever and CDCR Housing*, April 2019.

32. Inter-American Commission on Human Rights, *Report on the Situation of Human Rights in Venezuela*, OEA/Ser.L/V/II. Doc.209/17, 31 December 2017, para. 432.

33. 'Haiti: dozens of inmates starve to death as malnutrition crisis engulfs prisons', *The Guardian*, 23 June 2022, www.theguardian.com/world/2022/jun/23/haiti-prisons-starvation-un-deaths-crisis.

34. United Nations Integrated Office in Haiti, *Report of the Secretary-General*, S/2022/481, 13 June 2022, para. 42.

35. *Ibid.*, para. 29.

36. See, 'End-of-life care in prisons', Lynn Saunders for *Penal Reform International*, 21 February 2022, www.penalreform.org/blog/end-of-life-care-in-prisons.

37. *Ibid.*; see also, Ambitions for Palliative & End of Life Care Partnership, *Dying Well in Custody Charter: A national framework for local action*, April 2018.

38. Based on survey responses as part of Harm Reduction International's *Global State of Harm Reduction* programme, shared with Penal Reform International in October 2022.

39. Iqtidar, M. et al., 'Deaths in custody in the Irish prison service: 5-year retrospective study of drug toxicology and unnatural deaths', *BJPsych Open*, pp. 401-403, September 2018.

40. UN Office on Drugs and Crime, *World Drug Report 2017, Booklet 2: Global Overview of Drug Demand and Supply*, 2017, p. 24.

41. Armenia, Canada, Germany, Kyrgyzstan, Luxembourg, Moldova, Spain, Switzerland and Tajikistan – see Harm Reduction International, *Global State of Harm Reduction 2022*, pp. 22-25.

42. *Ibid.*

Self-inflicted deaths

In line with the disproportionately high rates of poor mental health in prisons, rates of self-inflicted deaths are consistently several times higher in prisons than in the general population, particularly among women and children. The lack of mental healthcare in prisons, particularly in low-income settings, have been exacerbated by the COVID-19 pandemic which brought both a drastic increase in the need for mental health support due to pandemic-related measures in prisons, and a simultaneous dip in service availability. This has resulted in a rise in the frequency of reported incidents of suicidal behaviour among people in prison.⁴³

There are real challenges in capturing accurate and reliable data on suicide rates in prison with risks of misclassification, selectivity and underreporting being commonplace. From the data that is available, it appears that suicide is a common cause of death in prisons in high-income countries (in Europe, this includes England, Finland, Germany, Ireland, Scotland, and Switzerland), with few or no deaths due to suicide reported in recent years in other countries, like Cameroon and Pakistan.

Many deaths from suicide in prison are preventable through the adoption of appropriate risk management tools, operational strategies and the provision of suicide prevention training. Prison staff should be trained to recognise symptoms of stress that may increase the risk of suicide and to alert medical staff immediately. Such measures can help prisons contribute to efforts to achieve the target under Sustainable Development Goal 3 to reduce the number of deaths attributed to suicide globally.

Emergency and conflict-affected contexts

Prisons do not escape the impact of natural hazards and extreme weather (including damage to infrastructure, fires, floods, and extreme temperatures) which has led to fatalities in prisons in both high and low-income countries.⁴⁴ In recent years, fires in prisons in Indonesia and Burundi resulted in at least 40 fatalities, and an inquiry in Chad attributed the death of 44 people in a prison in one night to their accommodation in a dangerously overcrowded cell at 46 degrees Celsius.⁴⁵

Prisons should be included in all natural hazard risk management, disaster mitigation plans and in response

and recovery efforts in the aftermath of natural disasters and extreme weather that leave people in prison exposed to increased risk.⁴⁶

It is estimated that more than 680,500 people are in prison in fragile and conflict-affected situations,⁴⁷ where the lack of stability, constant power struggles and frequent escalations in unrest make prisons a vulnerable target for external attack and violence. In Yemen for example, an airstrike in early 2022 targeted a Houthi rebel-run prison and is claimed to have killed at least 82 detainees and wounded 265 persons.⁴⁸ In Ukraine in 2022, there were missile strikes on prisons in active combat zones and reports of Russian military forces shooting detained persons and prison staff in order to suppress resistance and create an atmosphere of fear in prisons.⁴⁹ **In all crisis situations, the lives of people detained and working in detention facilities must remain a priority, and human rights protection must be at the forefront of humanitarian responses.**

Extreme sentencing

Most people on death row or serving sentences of life imprisonment can expect to die in prison because of their sentence. While the movement towards global abolition of the death penalty continues, many countries retain and still use the death penalty, with at least 28,670 people around the world known to be under a sentence of death at the end of 2021.⁵⁰ Some of these people will die by execution but others, including in countries where there is a moratorium on executions, will spend their lives in prison on death row and will die from other causes.

The sharp rise in the use of life imprisonment in recent decades has led to more than half a million people serving sentences of life imprisonment worldwide, including many serving life without the possibility of parole and an additional unknown number serving de facto life sentences.⁵¹ Many people serving life *with* the possibility of parole will also die in prison due to unrealistic release prospects or because they are detained in especially harsh conditions as a result of their life sentence. Data from Ukraine, for example, showed that between 2010 and 2018 a total of 256 life-sentenced people died in prison, constituting around a sixth of those serving life sentences.⁵²

43. Penal Reform International, *Global Prison Trends 2022*, May 2022, pp. 32-33.

44. *Ibid.*, pp. 38-39.

45. 'Chad inquiry finds 44 prisoners died in hot, overcrowded cell', *BBC News*, 9 August 2020, www.bbc.co.uk/news/world-africa-53712951.

46. For further guidance, see Penal Reform International, *Natural hazards and prisons: Protecting human rights of people in prison in disaster prevention, response and recovery*, December 2021.

47. Penal Reform International, *Global Prison Trends 2022*, May 2022, p. 46.

48. *Ibid.*

49. Dmytro Yagunov, 'Prisons in conflict – a view from Ukraine', *Penal Reform International*, 19 May 2022, www.penalreform.org/resource/event-prisons-in-crisis-conflict-climate-change-and.

50. 'Death Penalty 2021: Facts and Figures', *Amnesty International*, 24 May 2022, www.amnesty.org/en/latest/news/2022/05/death-penalty-2021-facts-and-figures.

51. Van Zyl Smit, D. and Appleton, C., *Life Imprisonment: A Human Rights Analysis*, Harvard University Press, January 2019; Penal Reform International and University of Nottingham, *Life imprisonment: A policy briefing*, April 2018.

52. Penal Reform International, *Global Prison Trends 2021*, p. 19.

Responding to and preventing deaths in prison

International standards

There are a number of international conventions and soft-law standards that are relevant to preventing and responding to deaths in prison. These include the obligation on States to protect the rights to life, health, and freedom from torture and ill-treatment of people they detain, as set out in several treaties.

The UN Minnesota Protocol on the Investigation of Potentially Unlawful Death⁵³ (hereinafter ‘the Minnesota Protocol’), applies to deaths when a person is detained by, or was in the custody of the state, its organs, or agents. It provides critical guidance to those involved in the investigative process, including police and other investigators, medical and legal professionals and members of fact-finding mechanisms and procedures. The Minnesota Protocol complements the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.⁵⁴

The UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) include rules that pertain to all aspects of prison life including key provisions on the management and investigation of deaths in prison and how to protect the rights of detainees, including requirements to:

- Record information on the circumstances and causes of any death and the destination of the remains in a standardised prisoner file management system (Rule 8(f))
- Immediately inform the individual’s next of kin or emergency contact in the event of their death (Rule 69)
- Report any custodial death to a judicial or other independent authority mandated to investigate the circumstances and causes of the case, and fully cooperate with that authority and ensure that all evidence is preserved (Rule 71)

- Treat the body of a deceased detainee with respect and dignity, and return it to the person’s next of kin as soon as reasonably possible (at the latest upon completion of the investigation) or facilitate a culturally appropriate funeral if no one is willing or able to do so, and keep a full record of the matter (Rule 72)

Other relevant international guidance for detaining authorities, investigating authorities and others includes that published by the World Health Organization on preventing suicide in prisons⁵⁵ and the International Committee of the Red Cross on investigating deaths in custody.⁵⁶

Responding to deaths in prison

International human rights standards set out clear duties and obligations on prison authorities for when someone dies in prison. **Every prison system should have a comprehensive regulation in place outlining the necessary steps if a death occurs in prison, regardless of the cause.**

All deaths in prison must be registered and reported to the relevant investigating authority, including deaths that appear to be due to natural causes or self-inflicted.⁵⁷ The authority will vary from country to country but is typically the police, the office of the prosecutor, the coroner, prison ombudsperson or investigative judges. Any failure by a prison to report a death to the relevant authority or processes that manage a death within the prison system is in violation of international standards and should be viewed as an attempt to avoid transparency or accountability.

The body and the location where the deceased was found must be immediately secured to preserve all evidence, bearing in mind it may be a crime scene.⁵⁸ Only the investigators and medical officer – independent of the prison authorities – should have access to the

53. Office of the United Nations High Commissioner for Human Rights, *The Minnesota Protocol on the Investigation of Potentially Unlawful Death* (2016), 2017 (hereinafter ‘the Minnesota Protocol’).

54. UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (1989).

55. World Health Organization and International Association for Suicide Prevention, *Preventing suicide in jails and prisons*, 2007.

56. International Committee of the Red Cross, *Guidelines for Investigating Deaths in Custody*, June 2020.

57. The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), Rules 8 and 71; the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), paras. 2, 17.

58. The Nelson Mandela Rules, Rule 71.

area until everything of interest is documented.⁵⁹ If any wrongdoing is suspected, whether by a staff member, another detainee, or other person, they should be separated from others, protected from any possible reprisal and all relevant information provided to the investigating authority.

An incident report should be completed by the prison authorities with the input of all relevant staff, including healthcare staff, and an entry should be made in the prisoner file management system.⁶⁰ All documentation pertaining to the deceased person, including medical files, should be retained and other potential evidence, such as CCTV footage, must be preserved.⁶¹

Prison authorities should treat the body of a deceased detainee with respect and dignity.⁶² Removal of the body and its transfer to a morgue, where the post-mortem examination will be carried out, must be closely supervised by the investigating authorities. The autopsy should be carried out swiftly as the body undergoes changes after death which may mask injuries,⁶³ and so there is no unreasonable delay in returning the body of the deceased to the next of kin.

In most cases, once the post-mortem examination has been carried out, the body of the deceased is released to their family. The requirement and process for this to happen promptly are often expressly included in prison procedures.

In some cases, however – often where people have been in prison for a long time – no family member may come to collect the body of the deceased. In such cases, when the post-mortem has been completed at a government hospital, the prison authorities often coordinate with local municipalities to allocate a burial site. Charitable and faith-based organisations may also intervene or take responsibility for the funeral or burial arrangements. Some prisons, at least in the US and the Philippines, have their own cemeteries on the prison grounds.

“

When someone dies on the outside you hear immediately what happened to that person, but when it's in prison you don't hear anything. It's closed doors.⁶⁴

”

Bereavement when a loved one dies in prison is particularly distressing and traumatic for families. It is essential that families are informed immediately of the death and that they are treated with respect, sensitivity and transparency by authorities at all times. In practice, families often feel excluded from the process, with little information on the circumstances that led up to the death or involvement in investigations where they occur. Lack of communication and institutional defensiveness creates doubt and suspicion on the part of families towards the prison and health authorities.⁶⁵

Clear rules should be in place on informing the next of kin of the death, their involvement in relevant processes, the return of the body to the family upon completion of the investigation,⁶⁶ and what support is available to families following the loss of a loved one in prison.

Prison staff and other detainees may also be deeply impacted by a death in prison which can, in some cases, lead to depression, post-traumatic stress disorder (PTSD) or other mental health conditions.⁶⁷ Cellmates or those who find the deceased may be particularly affected and exposure to suicide, for example, can be a primary trauma. Prison staff and other detained persons in proximity to the death may use coping strategies to manage emotions and conceal the impacts of death, which can lead to them becoming 'hardened or disengaged'.⁶⁸ **Ongoing support should be available following a death in prison for both detained persons and prison staff, including through counselling, employee assistance programmes, or other measures such as changing duties, compassionate leave, or time off.**

59. International Committee of the Red Cross, *Guidelines for Investigating Deaths in Custody*, June 2020, pp. 15-17.

60. The Nelson Mandela Rules, Rule 8(f).

61. *Ibid.*, Rule 71.

62. *Ibid.*, Rule 72.

63. International Committee of the Red Cross, *Guidelines for Investigating Deaths in Custody*, June 2020, p. 19.

64. INQUEST, *Report of the Family Listening Day for the London Clinical Network Health in Justice*, December 2019, p. 24.

65. *Ibid.*, pp. 21-24.

66. The Nelson Mandela Rules, Rules 69 and 72.

67. Ricciardelli, R. et al. 'CCWORK Protocol: A longitudinal study of Canadian correctional workers' wellbeing, organizations, roles and knowledge'. *BMJ Public Health Emergency Collection*, 17 December 2021.

68. Banwell-Moore, R. et al. 'The human toll: Highlighting the unacknowledged harms of prison suicide which radiate across stakeholder groups'. *Incarceration*, 2022, p. 3.

Investigations and accountability

Under international law, states have an obligation to investigate all deaths, serious injuries and disappearances of persons that they detain, regardless of how the incident occurred.⁶⁹ The obligation to carry out investigations is an integral part of the right to life and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.⁷⁰ In particular, **State authorities must carry out an independent, impartial, prompt and effective investigation into the circumstances and causes of any death in prison, to provide reparation and redress to families, and to hold to account individual perpetrators of unlawful killings.**

This obligation is applicable to *all* prison deaths regardless of the cause. Even deaths that are caused by a known illness, suicide or other 'natural' cause, may be impacted or hastened by inadequate staffing levels, lack of medical care or necessary medical equipment, absence of suicide prevention programmes, etc., so may be attributable to the state in light of their positive obligation to prevent deaths in custody.⁷¹ The purpose of the investigation is therefore to clarify the facts; to establish, where applicable, state and/or individual responsibility; and to prevent as far as possible such incidents in the future.

In addition to an independent external investigation, an internal investigation by prison authorities into any death in custody should also take place. The aim of an internal investigation is to establish whether structural or individual shortcomings have led to an avoidable death, and to learn important lessons which should be implemented to prevent deaths and respond to them more effectively. This allows prison authorities to identify systemic failings and improve policy and practice. Prison staff must be held accountable for any failings that contributed to the death. Prison staff that fail to report deaths, disappearances, or serious injuries for investigation may be liable to disciplinary or criminal proceedings.⁷²

Investigations of deaths in prison vary significantly around the world. While some countries lack a process for independent investigations of all deaths in prisons, others have complex systems with different causes of death triggering a range of processes in form and scope, conducted by separate bodies and authorities with varying levels of effectiveness in terms of outcome and accountability. Overall, investigations and accountability for deaths in prisons around the world, and translation of lessons learned into reforms to address shortcomings identified, remain poor.

Preventing deaths in prison

The most effective way to prevent death in prisons is to reduce the use of imprisonment. In simple terms, with fewer people in prison, fewer people will die in prison. Beyond this, international human rights standards such as the UN Nelson Mandela Rules and the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) provide a roadmap to preventing deaths in prison by **ensuring human rights-based approaches to prison management.** This involves ensuring safe conditions in prison, including reducing overcrowding, providing an environment and adequate facilities and services to protect the right to health, preventing torture and unlawful use of force or restraint, and maintaining effective governance and control of the prison to ensure safety for all.

The collection and availability of accurate quantitative and qualitative data on deaths in prisons is crucial to allow for policies to be put in place to respond to the most common causes of deaths in prisons in a given country, region or facility. Targeted strategies may be required to address overrepresentation or spikes in certain diseases or self-inflicted deaths, for example. It would also help to identify those among the prison population who face heightened risk of dying in prison or different causes of death, such as older people or certain marginalised or minority groups. This could help to support implementation of early release to allow, for example, those with terminal illness to die in a more humane and dignified way with their families in the community, where appropriate.

Deaths in prison can also be prevented by **mitigating the negative impact of the prison environment on the health or safety of detained persons through improvements to prison infrastructure, architecture, design, and regimes.** This may involve improving nutrition, hygiene and sanitation to protect against disease, including access to running water, showers, and toilets, or improving ventilation in facilities in the case of air-borne diseases. Healthcare in prisons should be equivalent to that available in the community and should be organised in close relationship to the public health administration in a way that ensures continuity of treatment and care. The most effective way of doing this is to **assign responsibility for prison healthcare to the national health authority.**

69. The Nelson Mandela Rules, Rules 71; UN Body of Principles of Persons under any form of Detention or Imprisonment, Principle 34; UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions; the Minnesota Protocol on the Investigation of Potentially Unlawful Death; UN Human Rights Committee, *General Comment No 36*, 30 October 2018, para. 27.

70. International Covenant on Civil and Political Rights, Articles 6 and 7.

71. Penal Reform International, *Incident management and independent investigations*, 2018, p. 4.

72. OSCE Office for Democratic Institutions and Human Rights and Penal Reform International, *Guidance Document on the Nelson Mandela Rules*, 2018, p. 44.

Disaster Risk Reduction (DRR) can help to save lives in prisons in times of natural disasters or extreme weather. Planning, prevention and mitigation strategies can equip prison management and staff to respond effectively and provide the resources needed to manage or evacuate prison populations safely. This may involve carrying out risk assessments and evacuation drills, establishing early warning systems, or adapting infrastructure like reinforcing buildings or installing adequate heating or cooling systems. **Prisons should be included in all national, state, or local DRR-frameworks, and have their own disaster-related contingency plans and processes in place to coordinate with necessary bodies and services at local and national levels.**⁷³

Detention monitors, including National Preventive Mechanisms (NPMs) and international inspection mechanisms⁷⁴ provide necessary safeguards that help to prevent deaths in prisons by highlighting issues or practices in the prisons they visit that may increase the risk of people dying, as well as the inadequacy or ineffectiveness of measures to ensure safety and prevent loss of life. **Such bodies should have a clear mandate to inspect places of detention and make recommendations in line with international human rights standards. Given their preventive role, it is good practice for NPMs to receive information regularly or as deaths occur in prison from the authorities.**⁷⁵

Prison staff play a vital role in helping to prevent deaths in custody by supporting the mental health and well-being of all imprisoned people as part of their regular work. Staff can mitigate the negative psychological impact of imprisonment, such as depression and anxiety, self-harm or suicide. **Prison staff should maintain positive communication with people in prison, be trained in dynamic security approaches and equipped to recognise signs of serious mental health conditions, potential triggers for mental health decline and risk of self-inflicted deaths, and to take appropriate action.**⁷⁶

“

When I'd see the door, I'd say 'ah, that's where such and such took an overdose'. You'd always have that little mindfulness of that... You'd always have a connection with a particular place if it was a bad or a negative thing that happened.⁷⁷

”

73. For further guidance, see Penal Reform International, *Natural Hazards and prisons: Protecting human rights of people in prison in disaster prevention, response and recovery*, December 2021.

74. International inspection mechanisms include the UN Subcommittee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

75. For example, the NPM for England and Wales receives daily incident reports which form part of its criteria for prioritising inspections of certain facilities. See Her Majesty's Inspectorate of Prisons, *Inspection framework*, March 2022.

76. Dynamic security combines positive staff-prisoner relationships with fair treatment and purposeful activities that contribute to effective rehabilitation and reintegration to society. See Penal Reform International, *Mental health in prison: a short guide for prison staff*, 2018, p. 21.

77. Barry, C., 'You just get on with the job': Prison officers' experiences of deaths in custody in the Irish Prison Service', *Prison Service Journal*, Issue 230, March 2017, p. 59.

About Penal Reform International

Penal Reform International (PRI) is an independent non-governmental organisation that develops and promotes fair, effective and proportionate responses to criminal justice problems worldwide. We work to promote criminal justice systems that uphold human rights for all and do no harm. We run practical human rights programmes and support reforms that make criminal justice fair and effective. Our primary objectives are to secure trials that are impartial, sentencing practices that are proportionate and promote social rehabilitation, and humane conditions of detention where alternatives to imprisonment are not possible. We work through country missions, regional hubs, remote coordination, and through partners.

www.penalreform.org

About *prison*DEATH

Preventable prison deaths are common in every country, causing significant harms to families, prisons and societies. *prison*DEATH brings together a multidisciplinary team from the University of Nottingham (Dr. Philippa Tomczak), University of Galway (Dr. Róisín Mulgrew), St Olavs University Hospital and the Norwegian University of Science and Technology (Dr. Catherine Appleton). Facilitated by the University of Nottingham Faculty of Social Sciences, this academic team are working in partnership with Penal Reform International and the international community, seeking to put the overlooked issue of prison deaths on the global penal reform agenda.

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