

## Ensuring access to measures for the prevention of mother-to-child transmission of HIV in prisons

*The Commission on Crime Prevention and Criminal Justice,*

*Recalling* all standards and norms in crime prevention and criminal justice developed at the request of the Commission on Crime Prevention and Criminal Justice and adopted or recommended by the General Assembly, or adopted by a United Nations congress on crime prevention and criminal justice, and recognizing that the Universal Declaration of Human Rights<sup>1</sup> is a source of inspiration for the United Nations standards and norms in crime prevention and criminal justice,

*Bearing in mind* the need for vigilance with regard to the specific situation of children, juveniles and women in the administration of justice, in particular while they are deprived of their liberty, as recommended in the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),<sup>2</sup>

*Emphasizing* the need to give priority to alternatives to imprisonment for women who have come into contact with the criminal justice system, as recommended in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules),<sup>3</sup> and emphasizing also that, in appropriate cases, and when feasible, when sentencing or deciding on pretrial measures for a pregnant woman, non-custodial measures should be preferred,

*Recalling* General Assembly resolution 58/183 of 22 December 2003, in which the Assembly invited Governments, relevant international and regional bodies, national human rights institutions and non-governmental organizations to devote increased attention to the issue of women in prison, including the children of women in prison, with a view to identifying the key problems and the ways in which they can be addressed,

*Recalling also* the recommendation contained in the outcome document of the thirtieth special session of the General Assembly, entitled “Our joint commitment to effectively addressing and countering the world drug problem”,<sup>4</sup> on ensuring non-discriminatory access to health, care and social services in prevention, primary care and treatment programmes, including those offered to persons in prison or pretrial detention, which are to be on a level equal to those available in the community, and ensuring that women, including detained women, have access to adequate health services and counselling, including those particularly needed during pregnancy,

*Reaffirming* the principal role of the Commission of Narcotic Drugs as the policymaking body of the United Nations with prime responsibility for drug control matters, and that of the United Nations Office on Drugs and Crime as the leading entity in the United Nations system for addressing and countering the world drug problem,

*Reaffirming also* that the United Nations Office on Drugs and Crime, within the Joint United Nations Programme on HIV/AIDS Division of

---

<sup>1</sup> General Assembly resolution 217 A (III).

<sup>2</sup> General Assembly resolution 65/229, annex.

<sup>3</sup> General Assembly resolution 45/110, annex.

<sup>4</sup> General Assembly resolution S-30/1, annex.

Labour,<sup>5</sup> is the convening agency for addressing HIV and drug use and HIV in prisons, in collaboration with the World Health Organization, other co-sponsors and the secretariat of the Joint Programme,

*Underlining* the recommendation by the World Health Organization that special consideration should be given to ensuring that pregnant female prisoners have ready access to services for the prevention of mother-to-child transmission of HIV, as women may face greater barriers to HIV testing, counselling, care and treatment in prison than outside prison,<sup>6</sup>

*Taking note with concern* of research findings showing that the female prison population increased by approximately 50 per cent between 2000 and 2014,<sup>7</sup> compared with an increase of approximately 18 per cent in the total world prison population,

*Taking note of The Gap Report*, published by the Joint United Nations Programme on HIV/AIDS in 2014, indicating that HIV infection rates are particularly high among women in prison in several countries, apparently owing to the combination of gender inequality, stigma and discrimination and the overrepresentation of women who inject drugs,

*Noting* that many national HIV prevention, testing and treatment programmes provide insufficient access to services for women, adolescent girls and key populations that epidemiological evidence shows are globally at higher risk of HIV, such as prisoners, who are five times more likely to be living with HIV than adults in the general population,

*Acknowledging* decision 7.2 of the Programme Coordinating Board of the Joint United Nations Programme on HIV/AIDS at its thirty-seventh meeting, in which the Board requested the Joint Programme to support Member States and civil society in strengthening a human rights and public health approach to prison health and accelerating efforts to increase access to knowledge and evidence-based HIV prevention, treatment and care services for people of all ages in prisons, including for women and girls,

*Acknowledging also* the importance of providing women in prison with access to comprehensive health services aimed at HIV prevention and treatment, including the prevention of mother-to-child transmission of HIV, and of making available the sexual and reproductive health services necessary for HIV prevention and, for those living with HIV, free and continued antiretroviral therapy, as such therapy is the most effective method of preventing mother-to-child transmission of HIV and as securing the health of women improves the chances of babies being born free of HIV and increases child survival,

*Acknowledging further* the progress made since the launch of the Global Plan towards the Elimination of New HIV Infections among Children by 2015 and Keeping Their Mothers Alive: 2011-2015, including the fact that an estimated 85 countries are within reach of elimination of mother-to-child transmission, while noting that continued efforts are greatly needed,

*Noting with appreciation* that the number of new HIV infections globally among children declined by 50 per cent between 2010 and 2015

---

<sup>5</sup> UNAIDS Division of Labour: Consolidated Guidance Note — 2010 (Geneva, 2011).

<sup>6</sup> World Health Organization, *Consolidated Guidelines on HIV Prevention, Diagnosis, Treatment and Care for Key Populations: 2016 Update* (Geneva, 2016).

<sup>7</sup> Roy Walmsley, "World Female Imprisonment List", 3rd ed., World Prison Brief (London, Institute for Criminal Policy Research, Birkbeck, University of London, 2015).

owing to the effective roll-out of interventions to prevent the vertical transmission of HIV,<sup>8</sup>

*Noting with concern* that programmes and interventions to eliminate new HIV infections among children and to keep their mothers alive have often not addressed the needs of women in prisons, and that prisons are often excluded from the national monitoring of mother-to-child transmission of HIV,

*Acknowledging* evidence that shows that prompt HIV treatment protects health and reduces the risk of transmission, and recognizing that the World Health Organization updated its guidelines in 2016, recommending immediate treatment of all persons diagnosed with HIV,

1. *Urges* Member States, in line with the 2030 Agenda for Sustainable Development,<sup>9</sup> to strengthen their efforts and take measures aimed at promoting peaceful and inclusive societies, to ensure healthy lives and promote well-being for all and to achieve gender equality, in order to contribute to the elimination of transmission of HIV from mother to child in prisons, and to this end to strive to achieve Sustainable Development Goal 16, Goal 3 and Goal 5;

2. *Encourages* collaboration between justice, health and other relevant ministries and sectors in relation to HIV and health in prisons to ensure the highest attainable standard of health for people in prison;

3. *Urges* Member States to provide comprehensive health screening, including voluntary and confidential HIV testing, taking into account international guidelines and domestic legislation, on entry to prison and subsequently as and when required for female prisoners, so as to determine primary health-care needs and other gender-specific health-care needs, consistent with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),<sup>45</sup> particularly rule 6 thereof;

4. *Also urges* Member States, as noted in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules),<sup>10</sup> to ensure that prisoners enjoy the same standards of health care as are available in the community, noting that they should have access to necessary health-care services free of charge and without discrimination on the grounds of their legal status;

5. *Encourages* Member States, mindful of the need to respect the confidentiality of records, to ensure that prison health-care services, including treatment for substance use disorders, for persons living with HIV, for pregnant women and for children, are organized in such a way that the services follow patients in all criminal justice and health institutions, in close relationship to the general public health administration and in a way that ensures referral systems between prison and other relevant services, including in the community, in order to secure continuity of treatment and care;

6. *Also encourages* Member States, in developing responses to HIV/AIDS for persons in pre-trial and post-trial detention, to ensure that programmes and services are responsive to the specific needs of women,

---

<sup>8</sup> Four countries (Armenia, Belarus, Cuba and Thailand) were certified by the World Health Organization as having eliminated the vertical transmission of HIV by 2016; other countries are in the process of doing so.

<sup>9</sup> General Assembly resolution 70/1.

<sup>10</sup> General Assembly resolution 70/175, annex.

including comprehensive prevention of mother-to-child transmission,<sup>11</sup> and that, in this context, prison authorities encourage and support the development of initiatives on HIV prevention, treatment and care, such as, where relevant, peer-based education;

7. *Urges* Member States to provide education and information about preventive health-care measures and treatment, in particular on HIV and associated diseases and conditions, to prisoners;

8. *Calls upon* Member States to ensure that women's prisons make accommodation for all relevant prenatal and postnatal care and treatment, including for the prevention of transmission of HIV from mother to baby, free of charge, and by providing adequate food in a timely manner, a healthy environment and regular exercise opportunities for pregnant women, babies and breastfeeding mothers;

9. *Encourages* Member States, when necessary and appropriate, to suspend detention for female prisoners during pregnancy and while they are lactating, taking into account the gravity of the offence, the availability of adequate health-care services, including for HIV prevention and treatment, and the best interests of the child;

10. *Calls upon* Member States, when taking steps to eliminate mother-to-child transmission of HIV, pursuant to the commitments contained in the Political Declaration on HIV and AIDS: On the Fast Track to Accelerating the Fight against HIV and to Ending the AIDS Epidemic by 2030,<sup>12</sup> to ensure that such steps are also taken for persons in prisons in order to qualify for World Health Organization certification of elimination of mother-to-child HIV transmission, and invites the World Health Organization to include measures on preventing mother-to-child transmission of HIV in prisons when assessing whether a country can be certified as having eliminated mother-to-child transmission;

11. *Encourages* Member States, consistent with rule 32, subparagraphs 1 (b) and (c), of the Nelson Mandela Rules and rule 8 of the Bangkok Rules, to ensure that confidentiality and informed consent are respected with respect to HIV-related treatment of persons, especially women in prisons, including when providing necessary sexual and reproductive health services relevant to HIV and when treating other blood-borne diseases related to HIV;

12. *Encourages* Member States to provide training and supervision relating to the prevention of mother-to-child transmission of HIV for all relevant prison and health- and social-care professionals working with women in prisons, consistent with relevant and applicable international guidelines, domestic standards and clinical protocols;

13. *Requests* the United Nations Office on Drugs and Crime, in collaboration with relevant co-sponsors of the Joint United Nations Programme on HIV/AIDS, the secretariat of the Joint Programme and

---

<sup>11</sup> Comprehensive prevention of mother-to-child transmission comprises a four-prong strategy for stopping new HIV infections among children and keeping mothers alive. The four prongs are:

(a) primary prevention of HIV infection among women of childbearing age; (b) prevention of unintended pregnancies among women living with HIV; (c) prevention of HIV transmission from mothers living with HIV to infants; and (d) provision of continuous care and treatment for infected mothers, partners and their children. See World Health Organization, *Strategic Approaches to the Prevention of HIV Infection in Infants: Report of a WHO Meeting, Morges, Switzerland, 20-22 March 2002* (Geneva, 2003).

<sup>12</sup> General Assembly resolution 70/266, annex.

relevant experts, and in consultation with Member States, to develop measures for monitoring the epidemiological trends in mother-to-child transmission in prisons and the availability of service provision to prevent such transmission, including by developing tools for data collection, and invites Member States to provide national data, with due respect for the confidentiality of the health information of persons in prison;

14. *Requests* the United Nations Office on Drugs and Crime, as the convening agency of the Joint United Nations Programme on HIV/AIDS for matters relating to HIV/AIDS in prisons, in collaboration with relevant co-sponsors of the Joint Programme, the secretariat of the Joint Programme and relevant experts, and in consultation with Member States, to develop a technical guidance document on implementing measures to prevent mother-to-child transmission of HIV in prisons, based on international guidelines, in particular World Health Organization guidelines relevant to the prevention of mother-to-child transmission, and to support Member States, upon their request, in close cooperation with relevant United Nations entities and other relevant stakeholders, in their efforts to increase their capacity to eliminate mother-to-child transmission of HIV in prisons;

15. *Invites* Member States and other donors to provide extrabudgetary resources for the purposes described above, in accordance with the rules and procedures of the United Nations.