Prisons, drugs and COVID-19: Early releases and continuity of care

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Global Scan of decongestion measures

- March – June 2020
  - Published in July 2020: first global analysis

- Desk-based research, policy analysis, survey of NHRI, NPMs, prison administrations, civil society

- Information collected: authority; type of measure; criteria for release/exclusion [focus on health and drug offences]; implementation and impact
  - Lack of data (implementation; measures to reduce intake) → caveat
Why focus on people who use drugs and drug offences?

• ~20% of global prisoners → significant impact on success of the measures
• Health vulnerabilities to COVID-19
• Explicit calls for decarceration by UN mechanisms
• Arguably, some shouldn’t have been imprisoned in the first place → Potential for long-term, structural reform
• Human rights obligations through COVID-19 lenses
  • Prohibition of discrimination
  • Right to health
  • Prohibition of arbitrary detention (necessity and proportionality)
Key findings: DECONGESTION MEASURES

- At least 109 countries, at least 15 in Europe

- Main measures:
  - Early releases
  - Pardons/Amnesties
  - Diversion to house arrest
  - Release on bail/parole

- ~640,000 released (5.8%). At the same time, prisoners intake → limited impact
Key Findings: GEOGRAPHICAL GAPS

- **No releases** in China and Russia

- **Gap** in EECA (only Belarus and Kyrgyzstan)

- **Significant uptake** in Western Europe, Latin America, Africa, and SEAsia, though with many limitations
Key Findings: MAIN CRITERIA FOR ELIGIBILITY

1) Length of sentence served/left (50%)
2) Age (35%)
3) Pre-existing health conditions, incl. HIV/AIDS, TB, chronic illnesses (35%)
4) Crime: drug offences excluded in at least 28 countries*
5) Pre-trial detention (only 19%) + in some countries (Turkey) only final sentence
6) Gender: women (20%)
7) Availability of accommodation (10, incl. Belgium)
Key Findings: POOR IMPLEMENTATION

- Limited decongestion
  - 10-20% decrease
  - Bureaucratic hurdles

- In many cases temporary
  - Releases stopped in summer 2020 (Denmark, Slovenia, Norway)
  - Prisoners recalled (Iran)

- Not coupled with measures to significantly reduce intake/other structural reforms

→ No long-term impact
LACK OF SUPPORT ON RELEASE

- People who use drugs require specific attention on release from prison, because of the increased risk of overdose, HIV and viral hepatitis.

- Prisons must provide naloxone and continuity of opioid agonist therapy to address these risks.

- HRI’s Global State of Harm Reduction (data: April to October 2020) found no evidence of an expansion of these programmes in the context of COVID-19 decongestion measures.

- Limited analyses of experiences in countries who implemented releases found that community re-integration programs have often failed to support people returning from detention.
CONCLUSIONS

- The pandemic showed that where there is political will, reform is possible and change can be achieved quickly.

- The pandemic provided an opportunity to adopt structural, long-term reforms. Instead, most countries introduced limited, piecemeal, short-term measures.
  - Punishment prioritised over health.

- Even where measures were introduced, implementation was poor because of design flaws or bureaucratic hurdles.