

SOUTH  
AFRICA

## Addressing HIV/AIDS in prisons

Penal reform occupied an important position in the South African process of reforming its security sector after the end of apartheid. The new government of South Africa signed and ratified numerous regional and international treaties and declarations relating to the treatment of offenders and detainees. Government policy seeks to turn all prisons into correctional centres and all prison officials into rehabilitators. The government adopted an open door policy to international, regional and domestic human rights bodies to visit the country and make concrete proposals.<sup>1</sup>

According to the 2008-2009 Annual Report of the Judicial Inspectorate of Prisons, there are 237 prisons in South Africa, which collectively have the capacity to house 114,822 inmates. Eight prisons accommodate only female inmates, 130 only male inmates and 86 accommodate both male and female inmates. In addition there are 13 centres specifically for male juvenile inmates (including children younger than 18 years of age). The official capacity of different prisons varies from 31 to 3,024 inmates. Overcrowding is a problem in most of the prisons to varying degrees depending upon factors such as geographical location and security classification. 49 prisons are occupied at levels below 100%, 107 at levels between 100% and 150%, 62 at levels of 150% to 200% and 19 at levels more than 200%.<sup>2</sup>

As of December 2009, the total number of prisoners in custody was 161,320. Men constituted 97% of the total prison population and women 2.2%, a percentage similar to other countries in the region, such as Malawi (1,7%), Swaziland and Zambia (2,6%), Namibia (2,7%) and Angola (3,3%).<sup>3</sup>

**Sexual violence and HIV/AIDS in prisons**

A litany of scandals emanating from the Department of Correctional Services in the late 1990s and early 2000s drew public attention to the dismal state of South Africa's prisons. In 2001, the Government appointed the Jali Commission of Inquiry to investigate prison conditions and to issue recommendations for improvement. As part of its mandate, the Jali Commission was tasked with examining sexual violence in prisons. Its report presented evidence of rape being rampant in prisons, shedding light on a number of stories of pervasive prison rape – including of some prisoners deliberately raping others to infect them with HIV/AIDS.<sup>4</sup> The Jali Commission used strong words to highlight the seriousness of the problem and the authorities' responsibility:

*'... if the Department [of Correctional Services] keeps on ignoring the fact that sexual abuse is rife in our Prisons and that there is an extreme likelihood that prisoners who are exposed to violent unprotected sex will in all likelihood contract AIDS, then it is effectively, by omission, imposing a death sentence on vulnerable prisoners.'*<sup>5</sup>

Another key finding of the Jali Commission was that prison warders were homophobic towards gay and transsexual prisoners. The Commission found that prisoners had lost faith in the Judicial Inspectorate and Independent Prison Visitors complaints system, as their complaints were not dealt with effectively and offending warders remained on duty without being punished.<sup>6</sup>

1 United Nations, *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa*, Mission to the Republic of South Africa, June 14-30, 2004, 10, [http://www.achpr.org/english/Mission\\_reports/South%20Africa/Special%20Rap\\_Prisons\\_South%20Africa.pdf](http://www.achpr.org/english/Mission_reports/South%20Africa/Special%20Rap_Prisons_South%20Africa.pdf) (accessed November 24, 2009).

2 Judicial Inspectorate of Prisons, *2008-2009 Annual Report for the Period 1 April 2008 to 31 March 2009*, Judicial Inspectorate of Prisons, Republic of South Africa, March 31, 2009, <http://judicialinsp.dcs.gov.za/Annualreports/Annual%20Report%202008%20-%202009.pdf> (accessed December 1, 2009).

3 Ibid; International Centre for Prisons Studies web-site: [http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb\\_stats.php?area=all&category=wb\\_female](http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_stats.php?area=all&category=wb_female) (accessed February 8, 2010).

4 Commission of Inquiry into Alleged Incidents of Corruption, Maladministration, Violence or Intimidation into the Department of Correctional Services Appointed by Order of the President of the Republic of South Africa in Terms of Proclamation No. 135 of 2001, as Amended: Final Report, December 2005, 166-7, [http://www.info.gov.za/otherdocs/2006/jali/jali\\_comm\\_full.pdf](http://www.info.gov.za/otherdocs/2006/jali/jali_comm_full.pdf) (accessed February 2, 2010).

5 Ibid., 446-447.

6 Ibid., 568-90.

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The African Commission's Special Rapporteur on Prisons and Conditions of Detention in Africa, on visiting South Africa's detention facilities in 2004, noted that one of the major concerns was the burden of HIV/AIDS.<sup>7</sup> According to an Institute of Security Studies study carried out in 2003, HIV prevalence in South Africa's prisons is approximately 41% and 90-95% of deaths are AIDS-related. The risk of transmission of HIV is extremely high in prisons: high-risk sex is commonplace, usually in the form of unprotected anal sex, rape and sexual assault; gang violence is common, with sex innately intertwined with gang life.<sup>8</sup> The two most powerful gangs are the 26s and 28s, with the latter's power structure being based on 'homosexual partnerships and the prostitution of designated male inmates'. Rape victims tend to be reluctant to report perpetrators. Tattooing is a key activity in gang membership, and unsterilised needles and instruments are shared.<sup>9</sup>

#### Civil society programme to address HIV in prisons and on release

In 2006, the Sonke Gender Justice Network (SGJ) started a 'prisons transformation' project with men and boys. The project aims to reduce new HIV infections and increase positive living amongst staff and prisoners both while in prison and upon release through increasing knowledge of HIV prevention strategies and advocating for the necessary prevention and treatment services. SGJ particularly strives to address the needs of awaiting-trial prisoners, given that young people are disproportionately represented among this group and that HIV/AIDS infection rates are highest among the young. In 2007, SGJ worked in four prisons in the Western Cape and in 2008 the project was extended to four other prison facilities.<sup>10</sup>

During the initial phase, SGJ developed partnerships with the involved prisons by organising meetings with the Department of Correctional Services personnel in each prison, including management staff, general support staff and prison heads, to discuss and agree on work plans and implementation dates. In addition, it conducted a needs assessment to identify potential points of entry and issues to be addressed. For example, as part of the needs assessment conducted in Pollsmoor and Goodwood prisons SGJ held two focus group discussions with prisoners and six in-depth interviews with key staff; conducted an analysis of available health data to better understand the nature, quality and availability of HIV treatment in prisons; and reviewed HIV related policies and reports available from the Department of Correctional Services.

From the needs assessment, it emerged that there was an extremely low level of knowledge about HIV and AIDS amongst most staff and prisoners, and that information was best communicated to the groups via illustrations rather than written material or lectures due to the low levels of literacy amongst group members and their limited familiarity with HIV related terms and concepts. The assessment also revealed that most staff and prisoners were not aware of programmes within and outside prisons on HIV and AIDS, and that the stigma attached to being HIV-positive often constituted an important barrier to accessing services.<sup>11</sup>

SGJ then carried out capacity building workshops with prisoners and staff. Intensive five-day 'Men as Partners' workshops were conducted, focusing on issues of HIV/AIDS and gender-based violence, and participants were trained on the 'One Man Can' themes of ending domestic and sexual violence. The training included interactive sessions in which participants were encouraged to discuss among themselves issues of HIV/AIDS and gender-based violence. SGJ also conducted one-day workshops with senior management

7 African Commission on Human and Peoples' Rights, *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa*. Mission to the Republic of South Africa, June 14-30, 2004.

8 See SGJ web-site: <http://www.genderjustice.org.za/projects/prisons-transformation> (accessed February 2, 2010).

9 African Commission on Human and Peoples' Rights, *Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa*, 56.

10 SGJ web-site: <http://www.genderjustice.org.za/about-us/about-us.html> (accessed November 17, 2009); SGJ, *Prisons Transformation Project: Working with men and boys in Western Cape prisons to reduce the spread and impact of HIV and AIDS*, SGJ Proposal to the Elton John AIDS Foundation, January 11, 2008.

11 SGJ, Needs Assessment Report to the Elton John AIDS Foundation: *Ensuring Access to Treatment for Inmates in Pollsmoor and Goodwood Prisons and Upon Their Release*, November 10, 2008.

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and support staff at two of the prisons to improve staff knowledge and awareness of HIV/AIDS and violence, to better enable staff to protect themselves from HIV/AIDS and to better serve the needs of prison prisoners. In addition, partnerships were established with other organisations working with recently released former prisoners so as to ensure continuity with the work conducted within prisons after prisoners are released.<sup>12</sup>

Another activity initiated by SGJ was the development of murals at each training site to help spread awareness of issues relating to violence, drugs and HIV/AIDS. In each prison, a two-day skills development workshop was carried out with prisoners who discussed and agreed upon mural themes relevant to the prison population. Those involved in the painting of the murals became very engaged in the issues, giving themselves a group name and developing original and innovative designs.

The SGJ's prisons project was successful in that both staff and prisoners participating in the workshops were receptive to the issues and the training, and a good proportion of the prisoners within each of the prisons showed a commitment to implementing further HIV prevention activities. However, some challenges were encountered in the implementation phase of the project and have served as lessons learned for future projects of a similar nature:

- Challenges related to access: The Department of Correctional Services had a quite restrictive policy in relation to access to prisons for civil society organisations. In addition, it made it clear to SGJ that its access to prisons would have been curtailed and possibly revoked if the organisation made statements to the media that criticised the Department without the latter's approval. This limited SGJ's scope for using the media as a means to demand improved HIV/AIDS service delivery in prisons, and actually forced SGJ to choose between prison-based trainings and advocacy.
- Ensuring buy-in of Prison Head: In one instance, SGJ experienced difficulties with the point of contact at a prison who at times proved unreliable. This impacted on the project work plan, delaying the implementation of capacity building workshops. To deal with this, SGJ established a working relationship with the Prison Head who proved to be extremely supportive of the project and facilitated the appointment of a new point of contact for SGJ. This highlights the value of achieving the buy-in and commitment of senior management staff.
- Working within prisons' timetables: Fitting in with prison schedules proved to be a challenge as there were frequently other Department of Correctional Services educational programmes taking place. It was crucial to schedule workshops and obtain requests well in advance.
- Challenges related to programme design: There is a need to individually assess each prisoner's specific characteristics and try to address and reflect them in the most comprehensive way possible in training design and delivery. As the literacy level of prisoners is generally low, SGJ should develop low-literacy materials and approaches for training sessions. Focus should also be placed upon personal development so as to help address the other needs prisoners will have after they are released, such as education, employment opportunities and emotional support.<sup>13</sup>

<sup>12</sup> In parallel with the 'HIV prevention in prisons' initiative, SGJ run the 'One Man Can' campaign in eight South African provinces, as well as in Burundi, Kenya, Malawi, Mozambique, Namibia and Uganda. The Campaign, started in November 2006, aims to support men and boys to take action to end domestic and sexual violence to promote healthy, equitable relationships that men and women can enjoy. SGJ web-site: <http://www.genderjustice.org.za/projects/one-man-can-campaign> ( accessed November 17, 2009); Partner organisations are Civil Society Prison Reform Initiative, the National Institute for Crime Prevention and Rehabilitation of Offenders, the Department of Health and the Treatment Action Campaign; Sonke Gender Justice Project, *Accelerated HIV/AIDS Prevention Response in the Western Cape: Working with Men in Prisons and in Khayelitsha to reduce the spread and impact of HIV and AIDS*, Narrative Report to the Western Cape Department of Health Project Period: January 3rd– March 31st 2007, Proposal to the Elton John AIDS Foundation, January 11, 2008.

<sup>13</sup> SGJ, Needs Assessment Report to the Elton John AIDS Foundation: *Ensuring Access to Treatment for Inmates in Pollsmoor and Goodwood Prisons and Upon Their Release and Ensuring Access to Treatment for Inmates in Pollsmoor and Goodwood Prisons and Upon Their Release*, November 10, 2008.

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- Human resources: The human resources demands of the project were high. Workshop activities needed to be in both Afrikaans and Xhosa, and the nature and content of the training was such that prisoners required immediate and supplementary follow-up and support to enable them to implement their own HIV/AIDS prevention activities.

Today, SGJ has expanded its work (thanks to funding from the Elton John AIDS Foundation) and started a new project focused on men living with HIV/AIDS in prisons. This project aims to build the capacity of correctional staff to create a supportive environment for prisoners infected with and affected by HIV/AIDS and violence, and support prison officials and prisoners in carrying out HIV/AIDS prevention activities. Furthermore, training will be conducted for prisoners to provide them with the skills and commitment necessary to continue their health-seeking behaviour upon release, including the giving them needed information and contacts for accessing community support mechanisms. An assessment process aimed at identifying the concrete impacts of these activities on case officers and prisoners' attitudes and practices towards reducing HIV/AIDS is planned to take place in February 2010. In particular, monitoring will focus on identifying changed attitudes with reference to stigma, use of HIV services, condom availability and involvement in pre-release and post-release programmes.<sup>14</sup>

Local and international civil society organisations have played and still play a fundamental role in addressing human rights-related issues in prisons in South Africa. In its latest report, the Judicial Inspectorate has noted the major contribution of such key stakeholders and collaborative partners in correctional services. Organisations such as SGJ, to cite one among many examples, are recognised as actors with which “unconditional cooperation” is necessary as the only concrete solution for the “community's collective efforts at improving the situation in our correctional centres [to] have any chance of success”.<sup>15</sup>

- ▶ The importance of integrating gender into penal reform is discussed in section 3 of the *Penal Reform and Gender Tool*.
- ▶ Measures to prevent and respond to gender-based violence in prison are discussed in section 4.5 of the *Penal Reform and Gender Tool*.
- ▶ Training of prison staff is discussed in section 4.8 of the *Penal Reform and Gender Tool*.

<sup>14</sup> SGJ, *Prisons Transformation Project: Working with men and boys in Western Cape prisons to reduce the spread and impact of HIV and AIDS*, SGJ Proposal to the Elton John AIDS Foundation, January 11, 2008.

<sup>15</sup> Judicial Inspectorate of Prisons, *2008-2009 Annual Report for the Period 1 April 2008 to 31 March 2009*, Judicial Inspectorate of Prisons, Republic of South Africa, March 31, 2009, 41, <http://judicialinsp.dcs.gov.za/Annualreports/Annual%20Report%202008%20-%202009.pdf> (accessed December 1, 2009).