4. Violence, sexual abuse and torture in prisons

Jens Modvig

Key points

- Violence in prisons is often clandestine because of the fear of reprisal when it is reported.
- Because violence is not brought into the open, it is easily overlooked or underestimated.
- Authorities are obliged to protect prisoners against violence, which must not constitute an additional punishment on top of deprivation of liberty.
- Violence begets violence, so prison violence inhibits rehabilitation for normal life.
- Violence occurs mostly in high-security facilities and prisons with coercive practices, even though the security measures have been established to minimize the violence.
- A key performance indicator for the prevention of violence is that prisoners feel safe and secure.
- About 25% of prisoners are victimized by violence each year while 4–5% experience sexual violence and 1–2% are raped.
- Prevention may focus on the prisoners by identifying groups with special needs who are at risk of being victimized.
- Prevention may focus on creating a positive prison climate to encourage respect, humanity and fairness.

Introduction

Prisons are violent places compared to the community. United States government statistics demonstrate that rates of physical assault for male inmates are more than 18 times higher than the equivalent rates for males in the general population. For female inmates, the rates are more than 27 times higher *(1)*.

Violence in prisons is and should be a prison management and prison health service priority issue for several reasons.

First, violence begets violence, that is, exposure to violence during adolescence increases the risk of later violent and non-violent crime, drug use and intimate violence against or from a partner *(2)*. Thus, the rehabilitation or corrective dimension of imprisonment is undermined if prisoners are placed in an environment that makes them more violent and more criminal than before.

Second, in international law, prisoners are entitled to protection against violence such as assault, rape and torture. According to principle 5 of the United Nations Basic Principles for the Treatment of Prisoners: "Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights …" *(3)*.

Thus, state authorities have an obligation to ensure that prisoners enjoy protection against all human rights violations.

Third, a violent institution is more difficult and expensive to manage than a secure and safe institution with a positive climate, including a positive working environment.

Violence is difficult to address and assess precisely because it is surrounded by silence and, therefore, often underreported. Violence is – except for a justified proportionate use of force by staff – illegal and punishable. For this reason, reporting of violence committed by prisoners or by staff may lead to reprisals and retaliation ("snitches get stitches"). While this may also be the case in the world outside the prison, the deprivation of liberty means that a victim who reports the violence has no possibility of escape from the retaliation by the perpetrator. A study found that 25% of respondents who had not reported their most recent experiences of assault said that they did not believe that reporting victimization would make a difference. An additional 20% did not report an assault because they feared retaliation *(4)*. Comparisons of official violence and disorder statistics with unofficial statistics indeed reveal that the official statistics underestimate the problems *(5)*.

Definitions of violence in prison

WHO has defined violence as "The intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation" *(6)*.

It is noteworthy that the definition includes threats such as the potential use of force, and that the defining outcome is not only injury or death but also psychological harm, maldevelopment and deprivation.

Violence may further be categorized as self-directed, interpersonal or collective when directed towards: (i) oneself; (ii) one's family, intimate partner or unrelated person; and (iii) specifically defined groups for reasons of

a social, political or economic agenda. Organized groups or states may perpetrate collective violence. The nature of the violence may be physical, psychological, sexual or deprivation/neglect *(7)*.

In a prison context, the prison authorities have a general obligation to protect inmates against any type of violence, including excessive use of force. This chapter will address how prison authorities, including prison health services, may address the issue of violence.

Except for a proportionate use of force required for security procedures (which is outside the scope of this chapter), the many types of violence that may occur in prisons include:

- suicides, suicide attempts and self-harm;
- physical violence (beatings, fights) among prisoners;
- psychological violence such as threats, bullying or humiliation;
- sexual assaults of prisoners by other prisoners or by prison staff;
- excessive violence committed by prison staff towards prisoners amounting to torture or ill-treatment;
- violence by prisoners against prison staff, from single events to prison riots.

Suicide attempts and self-harm are outside the scope of this chapter. The following discussion will deal with violence more generally between prisoners, between prisoners and staff, sexual violence, torture and ill-treatment. The occurrence of the violence and underlying risk factors will be addressed and the final section will discuss the prevention of prison violence, both among inmates and perpetrated by prison staff.

On a technical note, the measures of violence used in the studies reviewed include the proportion of all prisoners exposed to violence, whether victimized once or several times (sometimes called the prevalence rate). This measure reflects the proportion of all prisoners surveyed as to their exposure to violence in the period of interest. This might be their lifetime prevalence or those who were exposed during a current or recent period of incarceration, for example, in the previous 6 or 12 months.

The studies of violence in prisons do not have uniform measures of frequency, although United States studies tend to focus on the most recent six months. In some studies, the reference period is not explicit. The differences between the estimates may be rather small, especially if the average period in prison was between 6 and 12 months, exposed prisoners were typically exposed more than once, and the prisoner had been in prison only once or twice before.

Violence in prisons

Prisoner-on-prisoner

A recent study found a six-month male prevalence rate of 205 per 1000 for prisoner-on-prisoner physical violence and 246 per 1000 for staff-on-inmate physical violence *(1)*. In other words, 20% of the prisoners had been subjected to physical violence by other prisoners and 25% to violence by prison staff during the preceding six months. For females, the prisoner-on-prisoner rate was the same whereas the staff-on-prisoner rate was 8%, that is, male prisoners experience more staff-on-inmate violence than female prisoners do.

Small to medium-sized facilities had higher prevalence rates of inmate-on-inmate physical violence, whereas medium-sized and large facilities had higher staff-on-inmate rates of physical violence. For comparison, the six-month sexual violence victimization rates for both sexes were 42 per 1000 for any sexual victimization and 15 for non-consensual sexual acts *(8)*.

Fairly consistent with the American study, a recent Australian study reported that 34% of the male inmates and 24% of the female inmates reported having been physically assaulted at any time during their imprisonment, and 7% of both genders had been threatened with sexual assault *(9)*.

Juveniles seem to be involved in prison misconduct and violence more frequently than slightly older prisoners and even more than adults *(10)*.

Prisoner-on-staff

Obviously, violence in prisons makes prisons a violent workplace for the staff. A study of direct, injury-producing violence using workers' compensation claims in a random sample of 807 correctional officers in an urban prison revealed that 25.9% reported one episode and 20.3% reported two or more violent episodes during an average length of employment of approximately 10 years *(11)*. Thus, at least half of the prison staff suffered injury due to violence during a 10-year employment period. The main risk factors for male employees being exposed to workplace violence were long-term substance-abuse, whereas female employees seem to have a violence-reducing effect on the inmate population.

Kratcoski *(12)* found that more than 70% of the violence against staff occurred in the detention/high security areas, during the day shift, predominantly directed towards trainees with little experience and committed by young inmates aged 25 years or less.

Sexual violence in prisons

Sexual violence is particularly difficult to study and assess

because of the stigma associated with being raped or abused and also because of the risk of reprisals from the perpetrator. Sexual violence may be defined as behaviour that leads a person to feel that he/she is the target of aggressive intentions *(13)*. This may also include sexual pressure. In a recent study, sexual victimization was viewed more narrowly as non-consensual sexual acts with oral, vaginal or anal penetration as well as abusive sexual contacts (touching or grabbing in a sexually threatening manner or touching genitals) *(14)*.

Estimates of sexual assault victimization have varied between 1% and 41%, depending on what was included. The annual rate in United States prisons seems to converge at about 5% or less *(14)*. A thorough review and meta-analysis of studies of prison rape proper concluded that 1.9% of inmates have experienced a completed episode of sexual victimization during their entire period(s) of incarceration *(15)*.

Recently, Wolff & Shi *(14)* found that 4% of male inmates and 22% of female inmates reported that they had been subject to prisoner-on-prisoner sexual victimization (most often abusive sexual contact such as inappropriate touching) during the previous six months. At least one type of staff-on-prisoner sexual victimization was reported by 7% of male inmates and 8% of female inmates. Non-consensual prisoner-on-prisoner sexual acts amounted to less than 2% over six months, while staff-on-prisoner non-consensual sexual acts were less than 1.1%.

In 2007, the United States Department of Justice conducted a national inmate survey of 60 500 prisoners using an audio computer-assisted self-interview. The survey showed that 2.1% of the prisoners reported inmate-on-inmate victimization and 2.9% reported staff-on-inmate victimization. Of the latter, about half was reported as unwilling activity *(16)*.

A study in a juvenile correctional centre in South Africa, comprising interviews with 439 offenders, revealed that 29% said that they had been assaulted, attacked or physically hurt while in the facility. Of these, 68% had been beaten, pushed, stamped on or the like, 21% had been stabbed and 7% had been assaulted sexually *(4)*.

Of a random sample of current prisoners in California, 4% had experienced sexual violence (rape, other sexual assault) and 59% of transgender prisoners reported that they had been the victim of such experiences *(17,18)*. A British study found, by interviewing ex-prisoners, that 1% of prisoners had been sexually coerced involving sexual intimacy and 4% had been subjected to forced drug searches.

Sexual coercion in United States female facilities showed rates almost as high as male rates: up to 27% of female prisoners had experienced sexual coercion at some point in any prison in the state. Of these, about 25% (7/27) resulted in rape *(19)*, that is, a prison-life rate of 7–8%.

Sexual victimization during imprisonment is experienced by between 1% and 40% of the inmates, while physical victimization is experienced by between 10% and 25% of the inmates *(20)*. However, the resulting estimates obviously depend on the investigation methodology, including the sample and the phrasing of the question posed to the interviewees. Wolff and colleagues found that when they used the same questions, 0.2% of women in a community sample reported being raped (attempted or completed) during a 12-month period compared to 4.6% of women during a 6-month period in prison. The rates of physical assault on men were 0.9% in a community sample over a 12-month period and 32.9% in prison during a 6-month period *(19)*.

Wolff & Shi *(14)* included in their survey questions about the emotional consequences of their worst incidents of sexual victimization. The majority of the targets reported at least one consequence – most frequently feeling distrust, nervousness, social apprehension, and worry about recurrence and depression. Also, sexual victimization within the previous six months was associated with feeling unsafe. Lockwood *(13)* reports that a victim of a prison sexual assault finds it difficult to reintegrate into society and tends to become more violent. Many prisoners worry about their sexual identity.

Torture and ill-treatment

Torture is a subgroup of collective violence, defined specifically by the severity of the pain, the intentionality, the purpose and the perpetrator. In the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment *(21)*, torture is defined as: (i) severe pain or suffering, physical or mental; (ii) inflicted intentionally; (iii) with a specific purpose such as to obtain a confession or to punish; and (iv) by a person acting in a public capacity. In contrast, cruel, inhuman or degrading treatment (also called ill-treatment) may involve less but still substantial pain or suffering and not necessarily be committed for a specific purpose.

Torture is prohibited according to international law, and there are no circumstances that justify an exception to this prohibition. Nevertheless, according to human rights reports, torture is practised in about 130 countries and is widespread and systematically used in 80–100 countries *(22)*.

Hostilities facilitate torture, for example, between the warring parties in an armed conflict or between religious, sexual or political majorities and minorities. Such hostility may develop into de-individualization and de-humanization. Torture may be interpreted as socialized obedience in an environment where the perpetrators see themselves as performing a great service by punishing a group that they perceive deserves ill-treatment *(23)*. For this reason, minorities (of a sexual, political or religious nature) are at increased risk of being victims of torture and may be in need of stronger protection measures.

Pre-trial detainees are at special risk of torture because their investigation is ongoing. Obtaining a coerced confession may be viewed as attractive by law enforcement authorities. In addition to coercing a confession by use of torture or other types of excessive use of force, isolation is particularly sensitive for pre-trial detainees. The mental health impact of isolation is well documented *(24)*; the use of solitary confinement on an accused pre-trial detainee may cause suffering and pressure to force confession to a crime that the detainee might not have committed or admitted.

In some torture settings, the signs of torture may serve a political purpose as a show-case, to scare the opposition or dissidents from being politically active. Here, methods leaving physical marks (unsystematic and systematic beatings, electrical torture, cuts and amputations) indeed serve their purpose. In other settings, the regime pretends to comply with human rights and applies torture methods which leave no marks so that international missions do not detect them. Torture that leaves no visible marks can include psychological torture, such as deprivation, induced desperation, threats, sexual humiliation or desecration *(25)*. Humiliation through strip-searching is a routine practice in many countries *(26)*.

Documentation of torture, both the torture methods used and the medical documentation of the health consequences of torture, is best made according to an internationally recognized standard procedure: the Istanbul Protocol *(27)*. Documentation of torture in places of detention often takes place in connection with national or international external monitoring mechanisms.

Torture leaves severe marks on the body and mind. A recent review of 181 studies demonstrates that post-traumatic stress disorder and depression are frequent consequences of torture and related trauma *(28)*.

The main approach to the prevention of torture is the independent monitoring of prisons. Monitoring mechanisms, which represent the outside world looking at what goes on behind bars, can contribute to prevention through making recommendations to the authorities and/or by making the findings known to the public.

National monitoring mechanisms include:

- prison inspectorate/police inspectorate;
- parliamentary committees;
- lay monitoring committees;
- national preventive mechanisms established or appointed according to the Optional Protocol to the United Nations Convention against Torture – often an ombudsman or national human rights institutes;
- national nongovernmental organizations.

International mechanisms include:

- the United Nations Sub-Committee for the Prevention of Torture;
- the United Nations Special Rapporteur for Torture;
- the International Committee for the Red Cross;
- the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;
- international nongovernmental human rights organizations.

Many intergovernmental monitoring bodies operate with a mandate based on confidentiality, and publication of their findings may only take place if the host state party agrees. Thus documentation of the occurrence of torture rarely originates publicly from these bodies, but rather from national and international nongovernmental organizations (such as Amnesty International and Human Rights Watch) in their country or annual reports.

Prevention of violence in prisons

To address the prevention of violence, the starting point is in the explanation of models of violence. To understand prison violence, there are two main schools of thought *(29)*.

The *importation model* emphasizes that prisoners bring their violence-prone behaviour to the institutions through their histories, personal attributes and links to criminal groups, for example. This model would direct prevention efforts toward addressing the individual prisoners' proneness to violence through initiatives such as anger management programmes.

The *deprivation model* holds that the prison environment and loss of freedom cause psychological trauma so that, for self-preservation, prisoners create an oppositional prison subculture promoting violence. This model would direct prevention efforts towards the environmental factors and general prison climate, which need to be addressed by prison management.

Recent literature has predominantly focused on the details of prison organization, interactions between people and situational factors of considerable significance for prison violence.

Risk factors associated with prisoners

Individual risk factors for committing violence range from potential violence to assaults with serious injuries. Youth and short sentences are associated with higher levels of violent misconduct, while older age, drug convictions and a higher educational attainment indicate reduced violent misconduct *(30)*. Using injury registries (violence- and accident-related), Sung *(31)* found that a history of violent offences, violent victimization and psychiatric treatment were associated with increased risk of injuries. Work assignments reduced violence-related risks but increased the possibility of accident-related risks.

Wolff, Blitz & Shi *(32)* studied sexual victimization in prison for inmates with and without mental disorders, and found that the rates were approximately 2.5 times higher for inmates with a mental disorder and three times higher among female inmates compared to males.

Other special needs groups are likely to be at risk of victimization, such as inmates suffering from chronic diseases, minorities (ethnic, sexual, religious) and inmates with substance abuse. Also the rising population of older prisoners is victimized to a large degree *(33)*. Considering the health problems and functional deficits prevailing among older prisoners, it is likely that such victimization has a considerable impact on their quality of life and feelings of safety and security.

Situational risk factors

Studies have found a greater risk of violent incidents in higher-security facilities *(34)*. This might be expected because high-security facilities host more violence-prone prisoners. However, it might also be expected that security measures serve to manage the risk of violence and thereby prevent it. An explanation put forward by Gadon and colleagues is that increased surveillance creates greater levels of violence through a self-fulfilling prophecy.

There is also evidence that mixing the ages of prisoners may be associated with lower levels of violence than those found among groups of younger prisoners.

A study including 371 American prisons revealed that poor prison management is associated with assaults on both prisoners and staff *(35)*. The management variables included the guard–inmate ratio, guard turnover rate, ratio of white–black correctional staff, involvement in educational, vocational or industrial programmes and size of institution. Violence between inmates and violence against staff are correlated because staff are often injured during attempts to break up fights between inmates *(12)*.

Most violent episodes occur at the weekends, which could be a consequence of the lack of vocational and educational activities during the weekends *(34)*. Crowding is assumed to be a risk factor for violence, but the evidence for this is not convincing *(34)*.

In conclusion, risk factors for violence in prison settings involve factors related to the level of security, mix of prisoners, staff experience, days of the week and management approaches and relationships between different staff groups *(34)*.

It is also a plausible assumption that fights among inmates are often triggered by disagreements about underground economy issues such as money, drugs, weapons and mobile phones. Copes et al *(36)* studied the phenomenon in survey data from 208 recently released inmates in a midwestern state (United States) and concluded that participation in the prison economy (being in debt, borrowing money and having too little money to buy goods) is predictive of victimization through violence:

> Although the picture is complex, and some inconsistent findings have emerged, generally the literature supports the notion that the more coercive the prison environment the greater potential for violence. This is especially so where prison management and treatment of prisoners are perceived by prisoners as unfair or illegitimate, as this strengthens prisoner solidarity in opposition to the authorities *(29)*.

The joint efforts of ombudsmen, prison inspectorates and independent monitoring bodies have not managed to change the culture of casual cruelty in prisons *(37)*. Inspection standards developed in a monitoring context may, however, serve as standards for further quality assurance. One example is the healthy prison concept developed by Her Majesty's Prison Inspectorate in the United Kingdom *(37)*, testing whether prisoners are:

- held in safety
- treated with respect for their human rights
- offered purposeful activity
- prepared for re-settlement into the community.

Recently, performance indicators have emerged as a way of measuring institutional development. In terms of violence prevention, an example of a key performance indicator may be the proportion (say, 90%) of prisoners who felt safe the first night in prison and generally thereafter. Measuring the status of this indicator empirically (through

surveys) and comparing actual performance to the target performance will provide an indication of the need for further measures.

On a more holistic note, the concept of the moral performance of prisons has been developed by Liebling *(38)* to identify the important qualities of a prison from the point of view of inmates. This is a conceptual framework that is related to the overall social climate and respect for prisoners in general, and to the occurrence of violence and abuses specifically. The overall values included in this concept are:

- respect
- humanity
- staff–prisoner relationships
- trust
- support
- power/authority
- social relations
- fairness
- order
- safety
- well-being
- personal development
- family contact
- decency
- meaning
- quality of life.

A tool has been developed (Measuring Quality of Prison Life) to measure the compliance of prisons with this conceptual framework. This tool has been included in the routine assessments made by Her Majesty's Prison Inspectorate in the United Kingdom.

The role of the prison health services

While the prison management, including security measures and prison climate, has been identified above as the key factor in preventing violence, the health services have the potential to make an important contribution to the prevention of violence. Access to health care is associated with the prison climate: a positive prison climate facilitates interactions between correctional and health care staff and prisoners, while in negative climates correctional staff act as a filter or barrier between inmates and the health services *(39)*.

Registration and documentation of violence

When violence leads to injuries or to psychological consequences, the prison health service is frequently involved in attending to the victims. In delicate cases (cases of sexual violence, torture, or staff-on-prisoner violence), the health services may be involved under a false pretext, such as accidents, fights between prisoners or "falls". They may even be pressured to make a false report on the causes of the injury. However, it is important to develop a precise health information registry of the causes and circumstances of the injury, that is, violence between prisoners or between staff and prisoner. With an injury registry in place, the injury data can provide indispensable information on how to prevent violence through the examination of such factors as the place, time and day, circumstances, persons involved and the nature of the violence.

Of particular importance for the prevention of violence is the initial medical examination carried out on arrival in the institution *(40)*. This examination should focus on, inter alia, identification of indications (report, signs, symptoms) of violence or even torture experienced prior to arrival at the institution. A careful record should be made of such signs and symptoms and made available to the prisoner for potential subsequent complaint or legal remedy.

In addition to the health information registry of episodes of violence for internal consumption and quality development, the health services need to have a reporting mechanism to independent authorities, such as the ministry of health or an independent human rights body, to ensure that the delicate and punishable cases of violence, torture or sexual abuse may be evaluated neutrally, according to international standards such as the Istanbul Protocol.

The integrity of the health services, that is, the ability to operate professionally independent of the prison management, is at stake here, as is the technical capacity to document sensitive cases of violence, torture and sexual abuse for future documentation and legal remedy.

Protecting special needs groups

As mentioned above, many special needs groups (ethnic, sexual and religious minorities, minors) are at increased risk of being victimized by violence, sexual abuse and even torture. This also applies to prisoners with mental health disorders.

The initial medical examination may serve to identify prisoners with such special needs at an early stage. This allows the prison health service – with the consent of the prisoners – to put forward recommendations for their protection, often through meeting the special needs that apply to each group.

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Further reading

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