STANDARDS OF PENAL REFORM IN THE REPUBLIC OF KAZAKHSTAN

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ABSTRACT

The prison health service in Kazakhstan is currently under the administration of the Ministry of Interior in the Prison Service. As of 2012, there were 18 pre-trial detention facilities and 76 correctional facilities within the structure of the Prison Service. The prison estate's network of treatment and preventative facilities includes three somatic hospitals, one psychiatric hospital and seven specialist TB hospitals, as well as 78 medical units and 16 primary health facilities. In total, there are 3,798 bed spaces. The transfer of prison health services from the jurisdiction of the Ministry of Interior to the Ministry of Health is an important step in the development of Kazakhstani society and a thorough analysis is therefore required.

KEYWORDS: prisoners, medical services, mental health, drug users, vulnerable, communicable diseases.

INTRODUCTION

Internationally, there are currently many different systems for administering prison health services. In many European countries, prison health services are still organised traditionally and fall either under the jurisdiction of the Ministry of Justice or the Ministry of Interior. This is the case in Austria, Belgium, Bulgaria, the Czech Republic, Denmark, Finland, Germany, Greece, Ireland, Latvia, Holland, Poland, Portugal, Spain, and Switzerland. In Hungary, Italy, Luxembourg and Slovenia, there is a mixed system, where responsibility is also shared between the Ministry of Justice and the Ministry of Health. In France, Iceland, Norway, Cyprus, England and Wales medical aid in prisons is provided solely by the Ministry of Health.

ETHICAL STANDARDS

The key concept in the ethical evaluation of this reform is the principle of equivalence of care [1], i.e. that the level of health care provided in prisons should be the same as that which is guaranteed for the rest of society. One of the first documents to define the principle of equivalence in prison health services was the Oath of Athens (1979) [2], which states: 'We, the healthcare professionals who are working in prison settings, meeting in Athens on September 10, 1979, hereby pledge, in accordance with the Oath of Hippocrates, that we shall endeavour to provide the best possible health care for those who are incarcerated in prisons for whatever reasons, without prejudice and within our respective professional ethics.' The principle of equivalence is also established in the UN Principles of Medical Ethics 37/194 [3] (Principle 1): 'Health personnel, particularly physicians, charged with the medical ca¬re of prisoners and detainees, have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and stan¬dard as is afforded to those who are not imprisoned or detained'. An indication of the importance of the principle of equivalence is its inclusion in the European Committee for the Pre¬vention of Torture and Inhuman or De¬grading Treatment or Punishment in the Seven basic principles of prison health care organisation [4], which has been agreed by 57 countries. Integrating prison health services with the general health administration is seen as an important step towards realising this principle [5].

LEGAL STANDARDS

Cooperation between penitentiary and mainstream healthcare is actively supported by international committees. Although neither the UN Principles nor the World Health Organization declarations have a directly legal character, they are of great significance in terms of revising national legislation. According to the UN Standard Minimum Rules for Treatment of Prisoners (1955) [6], '[prison] medical services should be orga¬nised in close relationship to the general health administration of the community or nation.' (Rule 22/1). Cooperation between both systems is also recommended by the Moscow Declaration on Prison Health as a Part of Public Health (World Health Organization Regional Office for Europe, 2003) [7]: 'Member States are recommended to develop close working links between the health ministry and the ministry responsible for the penitentiary system to ensure high standards of treatment for detainees, protection for personnel, joint training of professionals in modern standards of disease control, high levels of professionalism among penitentiary health care personnel, continuity of treatment between

the penitentiary and outside society and unification of statistics.' Another important document regulating healthcare for prisoners is the European Prison Rules [8] (Recommendation R (98)7), adopted on 11 January 2006 by the Committee of Ministers of the Council of Europe, 2006. The need for cooperation between the penitentiary and mainstream healthcare system is expressed in § 40.1: 'Medical services in prison shall be organised in close relation with the general health administration of the community or nation', and also in § 40.2: 'Health policy in prisons shall be integrated into, and compatible with, national health policy.'

MEDICAL STANDARDS

The poor state of health of prisoners and the problem of organising effective medical aid for them is an important reason for organising the prison health service within the structure of the Ministry of Health. One of the first systematic inquiries [9] into the prison health service in Great Britain showed that 'any separate system for a minority group tends to sink to a poor standard; being employed by the Home Office makes it more difficult for a doctor when there are conflicts between society's and the prisoner's interests; the Official Secrets Act can hamper clinical independence; and prison is such a total institution that to be in one all the time powerfully influences the doctor's views and behaviour.' The main arguments for cooperation between prison and mainstream health services are set out in the Moscow Declaration [7]: 'Penitentiary populations contain an overrepresentation of members of the most marginalised groups in society, people with poor health and chronic untreated conditions, drug users, vulnerable people and those who engage in risky activities such as injecting drugs and commercial sex work. The movement of people already infected with or at high risk of disease to penitentiary institutions and back into civil society without effective treatment and follow-up gives rise to the risk of the spread of communicable diseases both within and beyond the penitentiary system. Prevention and treatment responses must be based on scientific evidence and on sound public health principles, with the involvement of the private sector, nongovernmental organisations and the affected population.' The experience of countries who have integrated the penitentiary health service into mainstream healthcare shows that the reform had a positive effect on indicators such as greater coverage of hepatitis B vaccination and higher birth weight of babies born to imprisoned mothers, and the time that prisoners waited before they received mental health treatment or dental treatment, for example [10].

CONCLUSIONS

1. International ethical, legal and medical standards attest to the necessity of close cooperation between prison and mainstream healthcare. Transferring the prison health service to the jurisdiction of the Ministry of Health will allow for the further democratisation of Kazakhstani society and bring Kazakhstan significantly closer in line with countries in the European Union [11].
2. Evaluation of the regulation the prison healthcare in Kazakhstan has revealed a lack of coordinated management and administration. The creation of a concerted mechanism for directing the prison health service is a task of utmost priority in implementing the reform [12, 13].
3. Transferring the prison health service to the Ministry of Health may cause inconsistencies in the financing of providers of penitentiary medical services, depending on regional healthcare resources. The creation of the system of financing medicine in prison, which is consistent across all regions, must therefore be introduced as part of the reform process [14, 15].
4. The current Guaranteed Volume of Free Health Service policy is inadequate for correctional facilities, as it does not take into account many forms of medical and surgical treatment. An important task for this reform is to increase access for prisoners to additional health services which they are currently denied [16].
5. The level of professional training of doctors in correctional facilities is lower than doctors in health services outside of prisons. Labour resources should therefore be allocated by state order. It is essential that a mechanism of material incentives for medical experts within penal facilities be created.

A significant problem with the prison health service is the fight against mental disorders, addictions, TB and HIV/AIDS. In Kazakhstan, monitoring and evaluation in these areas, as well as the revision and introduction of standards for medical practice are needed.

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