

## For an equitable COVID-19 vaccination strategy for the population deprived of liberty

Por uma estratégia equitativa de vacinação da população privada de liberdade contra a COVID-19

Por una estrategia de vacunación equitativa contra COVID-19 para la población privada de libertad

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doi: 10.1590/0102-311X00068221

Imprisoned populations have a high risk of infection from SARS-CoV-2, especially in low- and middle-income countries such as Brazil, where more than 700,000 individuals are kept in often poor conditions. Collective cells are common, as well as instances of overcrowding <sup>1</sup>, limited ventilation and inadequate sanitation with, not rarely, limited access to water. Such inhumane living conditions <sup>2</sup> make social distancing and personal and collective hygiene <sup>3</sup> difficult, thus complicating measures aimed at preventing the COVID pandemic. Where face masks are issued, their use is generally limited to outside prison quarters, and not within cells, where the situation of agglomeration is permanent. To contain the transmission of the virus, visits, unit transfers and collective activities, like schooling and office-working have been prohibited and “sunbathing” turned rarer. Conversely, measures recommended by the Brazilian National Council of Justice (CNJ) <sup>4</sup> to reduce overcrowding in prisons, such as granting anticipated provisional or total liberty to imprisoned populations who are close to the end of their sentence have not seen wide implementation. Equally, measures such as house arrest for inmates with comorbidities or the elderly (1.26%, or 9,489 prisoners are over 60) who have a higher risk of severe or deadly evolution (high-risk groups) have not been widely implemented <sup>5</sup>. In few areas, elderly inmates have been consigned to specific prisons to ensure they receive reinforced care.

Official data on infections and deaths published by the Brazilian National Penitentiary Department of the Ministry of Justice (DEPEN) <sup>6</sup>, based on state-collected information, do not accurately depict the current epidemiological situation with regards to COVID-19 in prisons. This is due to the limited access of imprisoned populations to RT-PCR tests and the fact that only laboratory-confirmed cases are recorded in the database. Additionally, the suspension, as a consequence of the pandemic, of the mandatory autopsy of those inmates who died in prisons, and the impossibility to identify in the Brazilian Mortality Information System (SIM) deaths of prisoners caused by COVID-19 or severe acute respiratory syndrome (SARS), has obscured our understanding of the situation. A recent survey conducted by CNJ, showed a 190% increase in deaths from COVID-19 in prisons during the first 67 days of 2021 when compared to the last 70 days of 2020 (n = 20 deaths vs. 58) <sup>7</sup>. Moreover, according to DEPEN data, Brazil observed between 2019 and 2020 an increase of 25% in the global mortality rate of elderly imprisoned populations (> 60). This data suggests that COVID-19 had a significant impact on mortality among elderly prisoners.

Given the impossibility to implement effective prevention measures in prisons, the need for vaccination is of paramount importance. Though incarcerated, imprisoned populations who live under

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the State responsibility, have the same rights to protection from COVID-19 as free citizens (including access to a vaccine). As UK minister Lucy Frazer said: “*people in prison will be vaccinated in line with the community as they should be*”<sup>8</sup>. Health and ethics logics should be prioritized; imprisoned populations should be among priority groups for vaccinations, given their high risk of infection<sup>9</sup>.

Nevertheless the politic logic, especially in the global context of limited vaccination supplies, tends to overrule health and ethical concerns. In the U.S. state of Colorado, Governor Jared Polis initially took a stand in the debate over vaccination priorities, claiming that “*there’s no way [the COVID-19 vaccine] is going to go to prisoners before it goes to the people who haven’t committed any crime. That’s obvious*”<sup>8</sup>. Such rhetoric disregards the fundamental rights of imprisoned populations to the same level of care as the free population, casting aside the responsibility of the State to care for all its citizens equally. Considerable debate was required to establish that imprisoned populations should be regarded as priority groups for vaccination. Yet, the priority given to vaccination of prison professionals, totally justified, was not controversial, but express a discriminatory perception of the infection risk for prisoners with which they share the same environment behind prison walls.

In Brazil, when discussions surrounding the National Operationalization Plane of Vaccination against COVID-19 (PNOV-COVID-19) began, imprisoned populations featured in phase 4 of the vaccination plan<sup>10</sup>. They were placed behind health professionals, the elderly, indigenous groups and those with comorbidities. Imprisoned populations were in line to receive vaccinations alongside teachers, security and rescue personnel, and prison staff based on the epidemiological criteria referenced by various technical bodies consulted by the Brazilian Ministry of Health. However, when the Federal Government presented its plan<sup>11</sup> to the Brazilian Supreme Court (STF) as part of the discussion surrounding vaccination distribution in the country (ADPF n. 754/DF), imprisoned populations had been removed from priority groups. Following strong reactions across various sectors, the Brazilian Ministry of Health revised its plan to include imprisoned populations among high-priority groups for vaccination, which it then presented to STF<sup>12</sup>. It cited the increased risk of contamination by the SARS-CoV-2 in prisons as its rationale. The new plan outlines the vaccination strategy for prison settings, to be carried out by the State and Municipal Health Departments, and State Departments of Justice, according to the National Policy of Comprehensive Healthcare of Incarcerated Populations (PNAISP).

A major gap of Brazil’s PNOV-COVID-19 is that it does not allow for the existence of imprisoned groups with a higher risk of developing serious symptoms. It omits elderly patients (> 60) and those with comorbidities – diabetes mellitus, renal failure, cardiovascular and cerebrovascular diseases, severe arterial hypertension, immunodeficiency (as caused by HIV/AIDS infection), chronic lung disease (such as asthma), extensive lung lesions resulting from tuberculosis, sickle cell anemia, and cancers among others – for whom the vaccination would be considered imperative were they free members of society. These comorbidities are especially frequent among inmates who belong to the most vulnerable stratum of the population<sup>13</sup>, a situation worsened by the limitations of the prison health system. As per Brazil’s constitution, which outlines the principle of equal and universal access to healthcare, inmates who belong to risk groups should be included in the same vaccination calendar established for the general free population. This already happens in France and, in Brazil, in the Federal District where elderly incarcerated groups are being vaccinated according to their age<sup>13</sup>. Elderly members of prisons are likely to be at similar, or even higher risk to COVID-19 as elderly members of care homes and shelters which are listed among priority groups. Equally, prison staff in Brazil will receive vaccination according to their individual status (age, occupation, and the existence of comorbidities), not according to the fact they work in prisons.

What is more, the focus on COVID-19, which has strained prison health systems and resources, already fragile, has led to the disregard of other diseases, especially chronic and infectious diseases that are commonly found in prisons<sup>14</sup>. The Brazilian National Council for Criminal and Penitentiary Policy considers that the longer the vaccination delay, the greater the eventual cost of preventative and general healthcare will be. Any delay could undermine other priority areas of healthcare in prisons<sup>15</sup>. Therefore, in addition to basic control measures, vaccination against SARS-CoV-2 is of paramount importance to improve global health assistance in prisons. Another aspect to consider in the Brazilian prison environment is the eventual emergence and actual degree of circulation, until now

poorly documented, of new variants of SARS-CoV-2, some of them more transmissible, which may cause more often severe forms of the disease and new epidemic waves behind prison walls.

In a perspective of guarantee of human rights, inmates should receive healthcare according to the same criteria which establish the hiérarchisation of risks and the priorities applied to the general population, without any reason to distinguish them. Their individual conditions should prevail over the fact that, temporarily, they integrate the prison population. Thus, given the difficult and limited supply of vaccines, the search for an equitable balance should take into account the existence of comorbidities, the age and the environment these persons are inserted in<sup>9</sup>.

Vaccination against COVID-19 should serve to reduce inequities among those who are in greatest need such as prison populations who, along with their families, live in situation of extreme vulnerability and face major obstacles in access to health. Thus, interinstitutional approaches are needed in order to improve access to prevention and the effective guarantee of health rights who's the State needs to be held responsible for any omission.

The access of prisoners to vaccination against SARS-CoV-2, altogether with the reinforcement of basic control measures in prison, access to diagnostic tests and care in accordance with good clinical practices are fundamental rights. To preserve these rights, active supervision is required by the justice system (especially Public Prosecutor's Office and Public Defender Office) and organizations of the civil society. Particular emphasis, for a question of equity, should be placed on ensuring the timely and equitable vaccination of imprisoned populations, in line with the general population.

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All authors contributed to the writing and revision of the manuscript.

## Additional informations

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Submitted on 14/Mar/2021

Approved on 19/Mar/2021