

BREAKING THE WALLS OF ISOLATION

RESTORING CONTACT WITH THE FAMILIES IN A WORLD WITH COVID-19

**COVID-19 AND DETENTION SERIES:
IMPACTS, LESSONS AND URGENT ACTIONS
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Together, we make up the largest global group actively standing up to torture in more than 90 countries. Helping local voices be heard, we support our vital partners in the field and provide direct assistance to victims.

Our international secretariat is based in Geneva, with offices in Brussels and Tunis.

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INTRODUCTION

To respond to the fears and predictions that Covid-19 would rapidly spread in places of detention, as of March 2020, authorities ordered the temporary suspension of on-site prison visits, including both contact and non-contact visits.¹ This measure was an effort to contain the spread of Covid-19 cases, considering the systemic overcrowding and poor ventilation in many detention settings, particularly in prisons across the globe, which make the enforcement of social distancing and other hygiene measures impossible.

Globally, in order to reduce entry points for Covid-19, restrictions were placed on entering and leaving detention facilities. This affected temporary release permits, home leaves, off-prison work, transfers to outside facilities and more.

During the ongoing pandemic, family contact has often been one of the **only windows to the outside world** which may have remained open and it constitutes the most **essential pillar for the mental and emotional well-being (and often material assistance) of persons deprived of liberty**. Family contact and, particularly, face-to-face contact with persons deprived of liberty is also crucial in the detection and reporting of allegations of torture and other ill-treatment. Also, in many countries around the world, family visits are key to ensure the supply of food and medication to those detained.

Detainees have been experiencing increased separation and isolation in spaces already confined. This can have **devastating and long-term effects upon the mental health** of detainees as their freedom of movement, rights to family and social life and communication with the outside world are, by definition, already severely curtailed. Coupled with that, both social isolation and poor mental health are risk factors for violence.

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This Guidance Note brings into the spotlight the severe psychological effects that the prolonged collective and individual isolation of persons deprived of liberty from the outside world has on the persons detained and their loved ones. In the framework of closure policies with no definite end in sight, the isolation, combined with the effects of other restrictions in place, may entail or lead to violations of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

.....

In the absence of action by authorities, the discontinuation of contact between detainees and their family members will also have a wide-reaching and long-lasting impact upon society as a whole. This is because visits in detention are key to maintaining social and family ties, which become crucial for successful post-release reintegration into families and communities.

Why a Guidance Note on communication with the outside world concerning persons deprived of liberty?

Ongoing restrictions to visits have dramatically increased the levels of isolation from the outside world, which has taken an enormous toll on the emotional well-being of detainees and their families outside prison walls. It has also intensified the difficulties in the detection and reporting of cases of torture and other ill-treatment.

As restrictions in the broader community are progressively lifted (at an uneven pace and depending on recurrent surges due to emerging variants), the extension of measures restricting rights in places of detention is a cause for major concern. There is an urgent need to protect the basic rights at stake and push back against the entrenchment of restrictions and closure policies, while promoting reform agendas against the backdrop of largely under-resourced and overpopulated prison and detention settings.



This Guidance Note responds to the urgent need to restore the contact of persons deprived of liberty with the outside world and in particular with their families, significant others, caregivers and social support networks.

To whom is this Guidance Note addressed?

This Guidance Note is primarily addressed to civil society organisations, notably the members of the SOS-Torture Network. It is also addressed to national preventive mechanisms (NPMs) and other bodies in charge of the monitoring and oversight of places of detention, as well as to staff and those in charge of the administration of places of deprivation of liberty.

Given that civil society organisations (CSOs) have been crucial in exposing the neglect endured by those behind walls during the Covid-19 pandemic, **their actions and pressure are all the more needed now**, as societies risk the crystallisation of closure policies.

This Guidance Note presents evidence-based arguments which show the importance of ensuring family visits and regular contact in order to preserve the dignity and the mental and physical health of persons deprived of liberty, prevent torture and ill-treatment, reduce violence and ensure reintegration into society.

Based on the inputs and best practices sent by CSOs, OMCT SOS-Torture Network members and other partners from all around the world, **the Guidance Note also lays out key principles and strategies to be used in successful legal, policy and advocacy interventions - notably vis à vis criminal justice and detention authorities - to restore and promote the contact of persons deprived of liberty with their families in the context of the ongoing Covid-19 pandemic.**

The purpose and methodology of the Guidance Note: A Call to Action

The challenges, policy arguments and goals reflected in this Guidance Note have been identified under the guidance and recommendations of the **OMCT Covid-19 Crisis Action Group**², established last year.

Information has been gathered through a [survey](#) circulated (in English, French, Spanish, Russian and Arabic), in October 2021 (hereinafter, “the survey” or “the October 2021 survey”), among SOS-Torture Network members, as well as experts in detention, criminal justice, gender, children and health.³ Complementary research (meetings with the Covid-19 Crisis Action Group’s experts, literature research, interviews) was conducted in the last six months.



This Guidance Note aims to:

- 1. Identify the extent to which restrictions affecting detainees' contact with the outside world are still in place, in particular with their families and significant others, as well as to shed light on the impact of such restrictions.**
- 2. Offer arguments and action-oriented recommendations, drawing on scientific and evidence-based data, that can be adopted to contribute to the improvement and restoration of access of detainees to the outside world and vice versa, while guaranteeing the observance of health and hygiene rules. It should be kept in mind that covid-19 risks becoming endemic and experts fear that new variants might emerge, compromising the vaccines and immunity. Share legal and advocacy strategies used by CSOs to engage authorities in steps towards increased access to information.⁴**
- 3. Share legal and advocacy strategies used by CSOs to engage authorities in steps towards the restoration and promotion of contact of detainees with the outside world, in particular with their families and significant others.**

This Guidance Note would not have been possible without the rapid and engaging response provided by the members of the SOS-Torture Network and partners that contributed to the call for input.

The scope of the Guidance Note

While the term “place of detention” is broadly understood to include any place where a person is deprived of liberty (prisons -civilian and military-, police stations, juvenile justice establishments, social care and rehabilitation homes, homes for the elderly, psychiatric institutions, immigration detention facilities, among others), this Guidance Note will focus mainly on places of detention for adults under the criminal justice system and, in a more limited way, on the challenges faced by children in detention, as well as migrants held under administrative detention schemes. Nonetheless, some of the strategies and best practices identified in this document are also applicable in other types of detention facilities (which require a specific approach and focus, beyond the scope of this Guidance Note.)

On-site visits are conducted for a variety of purposes including contact with families and support networks, access to legal services, access to health, educational and re-socialisation activities and entry of monitoring and oversight mechanisms. In this Guidance Note, the focus will be on visits by family members, including spouses, partners and others. As access to legal counsel and health specialists concern specific needs and other rights at stake, they will be addressed separately in future Guidance Notes of this Series on “Covid-19 and detention”. Nonetheless, general aspects analysed in this document may also be applicable for restrictions on monitoring bodies, visits by lawyers and health workers.

I. SETTING OUT THE PROBLEM: THE ENTRENCHMENT OF BLANKET BANS AND RESTRICTIONS ON FAMILY VISITS

Restrictions on visits, including temporary blanket bans, are still in place in a significant number of countries, with no end in sight.⁵ In other countries, family visits have resumed, coinciding with increased vaccination coverage and low Covid-19 incidence rates. However, restrictions on the number and length of visits and the exclusion of certain groups are still in place.



The most common restrictions include a reduced number of visitors allowed per detainee (e.g. only one person at a time), a shorter time allowed per visit; the exclusion of children, older people, persons with diabetes and pregnant women; visits being conditional upon written authorisation; additional requirements (including PCR test, Covid-19 vaccination certificate) and increased delays due to Covid-19 protocols.

While in many countries, prior to the pandemic, the seriousness of a prisoner's sentence and their classification in a regime determined how often and for how long their contacts could visit, the Covid-19 pandemic brought about a total and unconditional suspension of visits from March 2020. The ban lasted for over a year and a half on average (with a few countries having not yet lifted blanket bans as of March 2022).

It has been widely reported that restrictions have been lifted in detention settings months after the countries have eased restrictions in the wider community, including the restoration of visitation in care facilities (e.g., retirement homes) and opening-up to public events and mass gatherings (e.g., festivals). Furthermore, increasing concerns about the highly contagious Omicron variant have triggered the reimposition of measures severely restricting the right to receive visits and maintain contact with the outside world.

To mitigate the negative impact of the suspension or reduction of in-person visits on the persons deprived of liberty, prison administrations have reinforced alternatives to communicate remotely, including increased telephone calls, video conference systems (which might have been in place already, particularly to arrange virtual visits for foreign prisoners or with long-distance family member) and other electronic or digital means, but the existence and reach of these measures has varied greatly among countries and even among prisons within a country.

Detainees not being able to see their family members for two years

Blanket bans have been in force for a protracted period of time in many countries (ranging from a year and a half to two years) and in a few countries blanket bans persist at the present time. Among those countries, information was received concerning: **Honduras, Peru, Benin, Togo, Uganda and Indonesia.**

The frequency and scope of contact that persons deprived of liberty have with the outside world can also vary greatly depending on the type of place of detention.

In particular, concerns have been raised regarding persons deprived of liberty in the context of immigration detention schemes, with bans on visits and unavailability of alternative means of communication with family and the outside world (e.g., **Spain, Mexico**).

Within some countries, such as **Russia**, reports have also been received indicating a total ban on access to psychiatric hospitals where people are subject to compulsory treatment by court order.

There are numerous reports which indicate that restrictions are, frequently, adopted at the micro-level, by the director of each prison or detention authority, who hold complete autonomy and discretion in imposing limitations (e.g., in several countries in Latin America, like **Argentina and Colombia**). This has led to uneven access to places of detention within the same region or even the same city. These restrictions or shifting protocols usually lack transparency and have not been communicated in a timely manner to families and other visitors.

Prisons in some countries have, nonetheless, remained open during the pandemic. For instance, it has been reported that in the north of **Kenya**, prisons remained open to external visitors, which allowed for continuous psychological support and independent monitoring throughout the past year. Also, in **Burkina Faso**, reports indicate that prisons have remained open to the outside world.

II. KEY ARGUMENTS TO ENSURE FAMILY VISITS AND REGULAR CONTACT WITH THE OUTSIDE WORLD

1. Securing family contact: a cornerstone to ensure the dignity of persons deprived of liberty

Contact with the families is vital for the dignity and well-being of detained people. International human rights instruments enshrine the right to have frequent contact with the outside world and, in particular, with family members. The most meaningful forms of contact are in-person or face-to-face visits, including physical contact. As described, many countries are falling short of international standards, allowing prolonged periods where there has been no communication. International standards need to be observed and actions need to be taken to ensure that they are enforced in practice.

Visits to persons deprived of liberty are *“an important prerequisite to ensuring their mental well-being and social integration”*.⁶ They are also crucial for the well-being of the families of persons deprived of liberty and to ensure the right to family life.⁷ They are especially important for children, for whom physical contact is a basic need and source of emotional comfort.⁸ According to the Convention on the Rights of the Child, children have the right *“to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests”*.⁹

The United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment enshrine the right of a detained or imprisoned person *“to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations”*.¹⁰ The United Nations Standard Minimum Rules for the Treatment of Prisoners (the “Nelson Mandela Rules”) state that prisoners shall be allowed to communicate with their family and friends at regular intervals, by receiving visits and by corresponding in writing and using telecommunication, electronic, digital and other means.¹¹

International standards related to the treatment of women and children deprived of liberty address the right to visits in greater detail. Visits between detained parents and their children should take place in a visiting environment that permits open contact (without glass partition, offering an opportunity for affection and intimacy) and encourages extended visits, where possible. Children deprived of liberty, due to the particularly detrimental impact of their removal from the family, are entitled to receive regular and frequent visits from family members and should be permitted to leave detention facilities for home and family visits.

This right is framed as a cornerstone to ensure the dignity and well-being of persons deprived of liberty. This assumption is upheld by the Mandela Rules. Rule 43 lays out prohibited sanctions and restrictions pursuant to the absolute prohibition of torture and other ill-treatment under international law, with Rule 43.3 in particular stating that:

Disciplinary sanctions or restrictive measures shall not include the prohibition of family contact. The means of family contact may only be restricted for a limited time period and as strictly required for the maintenance of security and order.

2. The impact on mental health and the effects on the wider community

“*The importance of family ties is a golden thread running through the prison system.*”¹²

“*The effect [of restricted visiting] has been huge and has resulted in nightmares, bad sleeping patterns and depression.*”¹³

- Carer for child of incarcerated parent

Various scientific studies have analysed and shed light on the impact that the reduction and suspension of contact with significant others has on the mental health of persons deprived of liberty and their families. Several papers have focused on the effects of a sustained lack of contact, in particular physical contact, on children with their parents in detention. Others have described the devastating impact of the loss of family contact, especially with their children, on women deprived of liberty.

One of these studies, that conducts a review of the available scientific papers on the subject of mental health of persons deprived of liberty during Covid-19, concludes that there are four major triggers of the deterioration of the mental health of detainees. These are: isolation and social distancing (limited time of prisoners outside their cells and restricted access to other prisoners); fear of contracting or dying from Covid-19 (and fear of their families contracting or dying from Covid-19); reduced or discontinued mental health services; and **discontinuation of family visits**.¹⁴

Although there may have been significant issues with the quality and availability of visits pre-Covid, the results from our surveys, together with the evidence from scientific studies, jointly indicate that the pandemic restrictions on visits were a sea change, which has had a major impact upon the mental health and emotional well-being of persons in detention, as well as on their families' and most notably, their children's.

Increased levels of stress, anxiety and depression have been documented in persons deprived of liberty.¹⁵ Without any visits to look forward to, they feel they have no meaningful contact to hold on to. For relatives outside, there have been worrying behavioural and emotional difficulties documented in children. These include increased anxiety and distress, loss of appetite and eating disorders, nightmares and sleeping problems, and increased aggressiveness, caused, among other factors, by the children's separation anxiety and fear of losing contact with their imprisoned parent. Experts agree that in-person visits are vital to maintain the affection, emotional ties and balance between family members, especially with children vis à vis their parents and vice versa. “Contact visits, when the parent and child can see each other in person and can hug and hold hands, are the most meaningful form of social interaction supporting family relationships”.¹⁶



The specific and disproportionate impact on children deprived of liberty

Restrictions involving the suspension and reduction of visits have also applied to children deprived of liberty, despite the existence of international standards and guidelines affirming the need for children to maintain social connectedness and in particular in-person visits by family members.¹⁷

In **Togo**, children in detention have not been able to touch nor see their families since a decree issued in June 2021. A similar pattern has been observed in **Benin**. In **Moldova**, reports received indicate that detainees in juvenile detention centres had not been able to call home or see their families for an extended period of time, which had a significant negative impact on their psychological and emotional state. The discontinuation of contact with families since the beginning of the pandemic has also been observed in Child Correctional Homes in **Nepal**. In the **US**, *Physicians for Human Rights Asylum Network* are advocating the increase of telephone/video communication of children in the custody of Office of Refugee Resettlement (ORR) with their families or caregivers (they recommend at least 30 minutes of phone communication per day, video being preferable), as currently children are only ensured a minimum of 20 minutes per week per agency guidelines.

The forcible separation of a child from their caregiver compounds the harm of detention, as a child's relationship with their caregivers is essential to their sense of safety and well-being. Thus, for children in detention, communicating with parents and other family members is crucial to mitigate the inherent harms caused by family separation. There is an extensive scientific literature that details how the lack of contact with their families can disrupt the neurological growth; can lead to increased mental health problems; and be harmful for the behavioural and developmental needs of children in detention, including cognitive issues such as difficulties with learning, memory and attention.¹⁸

The suspension of visits on children deprived of liberty, given the severe suffering and the mental and physical effects it entails, and their unique vulnerability, can violate the absolute prohibition of torture and other ill-treatment.

The reduction and lack of contact between persons deprived of liberty and their families will also have long-lasting and wide-ranging effects on societies as a whole. Visits are key to maintaining family and social ties and have been linked to reduced recidivism rates¹⁹, better post-release adjustment and easier community integration²⁰. Therefore, ongoing restrictions can be a major obstacle for the family²¹ and community resettlement of persons deprived of liberty.

3. A key safeguard against torture and essential for access to basic necessities

During the Covid-19 prison lockdowns, weaker safeguards and reduced external monitoring and oversight have resulted, in practice, in families and support networks of detainees being the only available instance to channel complaints of torture and other ill-treatment. Cutting detainees off or reducing options to contact families blocks the last available way to report torture, which *de facto* closes the door to any protection and accountability options. Furthermore, it has been widely reported that relatives and friends are the only ones able to detect situations of abuse when detainees are not in a safe environment to share information (e.g., if visits take place under surveillance).

The suspension of visits has also led to the reduction in the ability to provide material support, medicines, food and other basic supplies to detainees in countries where their survival may depend on them.²²

Family and social support networks have also been identified as valuable sources of vital information for persons in detention. This information can include hygiene measures and facts about vaccination, which can dually protect against the spread of Covid-19 and combat the prevalence of mis- or disinformation in detention settings. They can also help to increase knowledge among detainees about their rights in detention and about the mechanisms that can be used to claim these rights.

4. Reduction of tensions and violence in detention settings

Increased tensions and prison riots have been associated with the reduction of visits and family contact. This is due to the negative impact on the mental health and emotional well-being of persons deprived of liberty.²³ Restoring and maintaining meaningful contact with families outside would address a key risk factor for violence amongst detainees and against or involving staff of places of deprivation of liberty.

As stated by health experts in a recent [academic paper](#), both social isolation and poor mental health are risk factors for violence and self-inflicted harm.²⁴ Thus, an environment that facilitates visits and frequent contact with families also leads to improved conditions to ensure the well-being, physical and mental integrity of staff working in detention facilities.

In a public hearing before the Inter-American Commission on Human Rights in October 2021, a group of 15 prominent human rights organisations (composing the OMCT-led Litigators' Group against Torture in Latin America), from 10 different countries in Latin America, expressed concern about the fact that:



*The wide and drastic scope of the measures that continue to limit communication with the outside world of persons deprived of liberty in the context of the pandemic has generated a situation of isolation and disconnection, which in many cases has remained for 19 months, with dramatic consequences for mental health and family and social well-being, with a very worrying increase in suicides and violence in the prison context.*²⁵



As specified in the visiting guidelines of the Department of Corrections from Washington State (**United States**), in relation to the Extended Family Visit Program (EFV),²⁶ visits are intended “to support building sustainable relationships important to inmate re-entry, as well as provide incentive for those serving long-term sentences **to engage in positive behavioral choices, therefore reducing violent infractions**”.²⁷



It is crucial to bear in mind that:

- According to international standards, restrictions and disciplinary sanctions should not include the prohibition or discontinuation of family contact.
- Increased levels of stress, anxiety and depression have been documented in detainees and their relatives outside due to the discontinuation of family visits.
- Family contact is a key safeguard against torture and other ill-treatment.
- Social isolation and poor mental health are risk factors for violence and self-inflicted harm in detention.

III. CORE PRINCIPLES TO ENSURE COMMUNICATION WITH THE OUTSIDE WORLD

1. Visits are a right and can only be restricted for a limited period of time and in observance of the legality, necessity and proportionality principles

Family contact may only be restricted for a limited time-period and strictly on the basis that it is required for the maintenance of security and order. However, in practice, in many countries, measures restricting the core exercise of rights have been adopted by administrative bodies and local authorities in the form of orders, decrees or circulars.²⁸



Even in emergency situations, competent authorities are prevented from restricting family contact except for when it is “strictly required” (International Covenant on Civil and Political Rights, art. 4). This is only when there is a clear and accessible legal framework allowing it (versus shifting protocols of entrance as a discretionary measure of prison directors). It is also required that the necessity and proportionality of the measures are regularly assessed, including through judicial oversight.

In order to meet these requirements, total bans on visits should always be the last resort and exclusively applied when less harmful alternatives do not exist. These measures should be limited in time and subject to periodic judicial review. Further, the norms and regulations containing these restrictions should be accessible and communicated swiftly to families and other visitors in all official and widely spoken languages, so that they are aware of the rules and can act and plan accordingly.²⁹

The World Health Organisation (WHO), Regional Office for Europe, has stated that: *[a] temporary suspension of on-site prison visits will need to be carefully considered in line with local risk assessments and in collaboration with public health colleagues and should include measures to mitigate the negative impact such a measure is likely to have on the prison population. The specific and disproportionate impact on different types of prisoners, as well as on children living with their parent in prison, must be considered.*³⁰

The Committee on the Rights of the Child has recommended that “[t]he rights of affected children should be regarded as a relevant factor in determining the security policy concerning incarcerated parents, including with regard to the proportionality of the measures in relation to areas that would affect the interaction with affected children”.³¹ As it has been noted by the Essex Group, *“prison administrations should exercise restraint when applying restrictions to visiting children, as their best interest must be an overriding consideration”*.³²

In sum, restrictions on basic rights of persons deprived of liberty, such as the right to receive visits, even during a public health emergency such as a pandemic, should be adopted through a form and procedure that do not fall short of international human rights standards. This requires observance of the principles of legality, necessity, proportionality and non-discrimination.

As a good practice, in many countries, pandemic plans have been adopted at the ministerial level and are implemented on a phased basis, depending on the risk of Covid-19 contagion.³³ Local authorities have a margin of discretion with procedures to follow when applying and reviewing restrictions according to the emergence of outbreaks or higher / lower Covid-19 incidence rates - and it is critical that there is some form of collaboration with local public health authorities and independent medical and public health experts unaffiliated with prison administration. However, frameworks for rules that will impose restrictions on the exercise of core rights are adopted at a national response level.

2. Promoting video-conferencing and other forms of remote communication as a complement (and exceptional substitute for) in-person visits.

“Video calls are positive for inmates who have family members who live far away from the prison and did not receive frequent visits, but not for inmates who received two visits per week”

- Dania Coz, lawyer, COMISEDH (Peru)

“My children are anxious and miss the face-to-face interactions with their dad. My son has had several meltdowns after video visits, as they often cut out and he doesn't get to see him”³⁴

Overall, in many countries, the right of persons deprived of liberty to communicate with the outside world has been neglected during the Covid-19 pandemic. The discontinuation of prison visits also brought to light the limitations of the existing remote communication options.

On the one hand, in the context of the lockdown and isolation measures imposed during the Covid-19 pandemic, an increasing number of countries have promoted and established alternative means of communication with relatives and lawyers of persons deprived of liberty. This has been achieved by increasing the frequency of telephone calls, making available secured mobile telephones, purchasing and setting up video-conference systems via tablets and/or laptops and, sometimes, including the accommodation of specific facilities to conduct the video calls.

On the other hand, limitations persist, with significant differences among countries due to, among other factors, the global disparities caused by the digital divide.³⁵ There have been many reported difficulties and frustrations with remote contact options, including the poor and uneven quality of video-conference systems, cell phones and/or internet connections, which results in poor quality of sound and image with echoes, background noises and disruptions to calls. There are also issues with the high costs that are incurred by inmates through video-calls and calls, the limited access and durations of video-calls and calls, the protracted bureaucratic procedures that must be completed in order to book them and, also, sudden changes and delays. Additionally, such technologies may not be an option for many, even if the hardware exists and the internet connections are adequate, due to low tech literacy. Thus, while many countries have experimented with video setups, particularly to allow judicial hearings, the situation remains precarious in a good number of them and implies a *de facto* deprivation of communication for many persons deprived of liberty.

Another major concern is the lack of confidentiality of remote communications. This shuts the door on any opportunity for intimate conversations and interferes with the privacy that enables informal communication, as they are subject to surveillance and monitoring (e.g., in **Hungary** video calls are supervised in person throughout by staff). Some countries (e.g., **Spain**) have improved confidentiality as video conference schemes have consolidated over the past two years.

Video calls present a range of possibilities, but they have been reported to be deficient in meeting the developmental needs of children, when their functioning is not fit for purpose. Apart from the poor quality and availability, visits often end abruptly or cut off, leaving family members disrupted and frustrated. A more child-focused approach would improve remote visits, including frequent access to phones (for video calls) during, before and after school time, phone calls at night to say goodnight and more frequent and lengthier periods of video calls. When it comes to children deprived of liberty, at least 30 minutes of phone communication per day should be facilitated, video being preferable, with communication guidelines being tailored to the age of children.



Remote communication practices

In Mendoza (**Argentina**), the use of mobile phones was authorised in most prisons throughout 2020-2021. This measure was complemented with the creation of facilities for virtual interviews or hearings and the possibility for family members to take basic food supplies or hygiene items to certain places, such as clubs, churches or social centres across the main neighbourhoods, to be delivered to the person deprived of liberty. This avoided the need for families to travel to the complexes to deliver basic supplies or hygiene items during times of lockdown.

In **Togo**, the prison administration has put mobile phones at the disposal of detainees but with the condition that conversations must be monitored. A prison guard attends every phone call. During a monitoring visit organised by OMCT and *le Collectif des Associations Contre l'Impunité au Togo* (CACIT) in October 2021, including the participation of a member of the United Nations Subcommittee on Prevention of Torture (SPT), prisoners revealed that they are not using the mobile phones due to the lack of privacy.

In **Georgia**, in order to compensate for the loss of physical visits with their family members and significant others, the special penitentiary service offered prisoners extra free phone calls - 15 minutes a month. However, according to the reports of the Public Defender of Georgia, the right to make extra phone calls was not ensured in practice in certain periods. According to the results of the monitoring visits conducted in summer and fall of 2020, they were allowed to access this right in the spring of 2020, but not during the later periods.

In **Peru**, the National Penitentiary Institute (INPE) has created an itinerant video call module system that has been implemented since November 2020. Before this, the prisons did not have the installation capacity to facilitate contact by virtual means as an alternative method to visits. The itinerant modules went from prison to prison, prioritising the connection of a small number of inmates who have a positive evaluation from the treatment area. Little by little, the video call system called "Integrated Virtual Visits System" has been implemented in all the prisons, with the support of donations of laptops from embassies or CSOs and the International Committee of the Red Cross (ICRC). As of April 2021, 65 out of 69 prisons had computer rooms; their access requires favourable evaluation by the penitentiary treatment area and is limited. Each prisoner has a maximum of 20 minutes per week and there are not enough computers to supply everyone. In Chimbote, for example, they have 15 computers for more than 2500 inmates. In Castro-Castro they have 30 computers for more than 5000 inmates.

To mitigate the severe impact of limitations to visits and contact with the outside world when virus containment grounds justify them, local advocates and civil society organisations have called on detention authorities to guarantee, as a basic principle in line with their international human rights obligations, access to free calls for every person deprived of liberty as well as access to videoconferencing systems, resulting in positive changes in various countries. For instance, various states and counties in the US, starting with Connecticut in June 2021,³⁶ have made calls free from their prisons, while others have reduced prices.



Prison administrations in Spain and civil society activism

In March 2020, a few days before the outset of the first state of emergency, the General Prison Administration System in Spain cancelled special visits (contact and conjugal visits) in all prisons and the measure was soon extended to all ordinary visits (non-contact visits, that is, with glass partition).

Prison administrations responded quickly with the extension of the number and duration of telephone calls (from 10 to 15 calls per week with a duration of 8 minutes each; the Catalan autonomous administration extended it to 10 to 20 calls per week with a duration of 8 minutes each). In this new context, civil society organisations and relatives of persons deprived of their liberty demanded cost-free calls and the installation of a video-call system, given the impossibility to see their loved ones in person. The two administrations opted to allow free phone calls for inmates without income and ordered the distribution of 235 smartphones (Spanish Prison Administration) and 230 smartphones (Catalan Administration). The decision to give preference to access to the video calls was initially made by the directors of each prison, giving priority to those inmates with extraordinary release permits and with positive evaluation criteria by the treatment boards.

In Spain, the 235 smartphones had to be distributed among the more than seventy penitentiary centres, resulting in an unequal distribution between centres and inmates. In Catalonia, video calls began at the end of March 2020 in the *Quatre Camins* prison and the 230 smartphones seem to have been sufficient in relation to the number of inmates³⁷.

Families and CSOs have welcomed the fact that video calls will be maintained beyond the pandemic crisis as a complement to in-person visits. However, they highlighted that their use should not be discriminatory, they should not come at the expense of face-to-face visits, nor should they be subject to surveillance.

3. Facilitating visits in safe conditions

In-person family visits should as a general rule be facilitated and promoted by prison and detention administrations, in order to fulfil the right of persons deprived of liberty to have meaningful contact on a regular basis with their family and social networks.

To this aim, visiting guidelines and any update should be publicly available and communicated to the families and external contact persons. They should follow pandemic plans in place, which foresee different responses on a phased basis pursuant to Covid-19 infection risk levels and community transmission rates. Visiting protocols should remain under continued review and aligned with local conditions and updated government announcements and policies.

Basic measures to be included in safety protocols to mitigate the risk of Covid-19 transmission during in-person visits to places of detention may vary depending on the public health risk level and the type of visit. These can include: mandatory face mask wearing for all visitors over a certain age, unless exempt (in this case, it should be communicated prior to the visit to allow the prison to put in place any necessary arrangements to safely facilitate the visit); hand washing and use of hand sanitiser (hand sanitisers should be made available both at the entrance to the prison and within the visit area); local social-distancing requirements between different visitors or visiting groups within the establishment; a Covid-19 symptom screening questionnaire, including a series of health-related questions; temperature checks; and a proof of a negative test (ideally offered on site and free of charge).³⁸

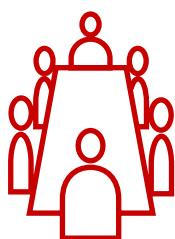
Contact visits in visiting rooms which permit informal communication and (limited) physical contact should be prioritised, encouraged and facilitated. Visiting facilities should be comfortable, pleasant and child-friendly (including e.g., specific play or children's areas or providing colouring sheets and crayon packs). Many regimes allow physical contact, such as hugging at the beginning and again at the end of the visit, and handholding, with the requirement of face masks. In **Scotland** (United Kingdom), under the visiting protocol in place, "[c]hildren 8 years of age and younger are permitted to hug, be held by and/or sit in the laps of parents and approved escorts throughout the visit session".

Cubicles (visitors sit on one side and detainees on the other, separated by a transparent barrier), where physical contact is impossible, should be avoided as much as possible, unless required for security or public health safety, particularly when there are young children visiting.³⁹

IV. LEGAL AND ADVOCACY STRATEGIES EMPLOYED BY CSOS TO BREAK THE ISOLATION OF DETAINED PEOPLE FROM THEIR LOVED ONES

CSOs have been instrumental in exposing the negative impacts and prompting the restoration of contact for detainees with the outside world and, in particular, with their families and social support networks.

Lawyers and activists have stepped up their legal and advocacy strategies, often in collaboration with associations of relatives, to protect the detainees' right to maintain contact with the outside world. They have done this by conducting a diverse range of actions, including in-court interventions and legal advocacy at the domestic and international levels.



Legal proceedings have included, among others, collective habeas corpus petitions. In Argentina, at the very beginning of the pandemic, lawyers at *Xumek Association* filed such petitions in the state of Mendoza, which resulted in a court order requiring the government to authorise the temporary use of mobile telephones while family visits were suspended.⁴⁰

In Mexico, *Documenta A.C.* filed and won a landmark collective *amparo* action, which sought the protection of persons involuntarily deprived of liberty in 350 drug treatment residences. Among other measures, the judiciary requested that authorities guarantee them access to the outside world.

Advocacy strategies have also been instrumental to improve contact with the outside world in times of lockdown but also as the gradual easing of restrictions has taken place outside detention facilities.

In Togo, CACIT and the OMCT submitted a letter⁴¹ to the President of the Republic to alert him about the impact that the closure of prisons and the suspension of family visits has had on the physical and mental integrity of the detainees and their right to communicate with the outside world. They highlighted the urgent need to re-establish visits in compliance with health protocols to prevent the spread of Covid-19.

In the Philippines, the Bureau of Jail Management and Penology (BJMP) allowed online visits in response to the appeals made by CSOs, who warned about the impact that the lack of communication was having on the mental health of both persons deprived of liberty and families.

In Italy, the *Association Antigone* insisted that the Government buy smartphones, which are usually banned in prison. The smartphones became a convenient tool for prisoners to communicate with relatives, with appropriate controls in place. On 24 March 2020, the Ministry of Justice reported to the Parliament that 1,600 smartphones had been purchased and would be distributed in prisons. A further 1,600 smartphones were purchased by a private donor with the mediation of *Antigone*.

The OMCT has expressed concern and urged authorities to guarantee the right of detained human rights defenders in **India** to have regular communication with their relatives, including by phone and video calls in the face of the suspension or difficulties associated with in-person visits, through widely disseminated urgent appeals and other advocacy channels.⁴²

CSOs can also partner with health professionals in letter-writing campaigns to authorities, and to publicly discuss the risk/benefit analysis of visitations and the health-related harms of disallowing visits with family or other individuals to those deprived of liberty.

Civil society organisations filling the gap

Nigeria: To address the restrictions imposed in prisons by the Nigerian Correctional Service, which limited the access of families, legal representatives and NGOs, resulting in a negative impact on the inmates due to the lack of adequate support and welfare, Prisoners' Rehabilitation and Welfare Action (PRAWA):

- Held virtual workshops and in person trainings for correctional welfare officers from the 36 states of the Federation. The workshops focused on the importance of family visits and inmates remaining connected to their family and community, as well as on how this promotes effective rehabilitation and reintegration.
- Piloted the procurement and installation of the first ever disinfection chamber in one of the largest custodial facilities in the country (Ikoyi Correctional Centre in the Ikoyi area of Lagos), which aimed to ensure safe access for inmates' families, legal counsels, NGOs and others.
- Provided equipment (one laptop, internet data with a 6-month subscription) to facilitate virtual visits of inmates with families and lawyers in 19 custodial facilities.
- Produced and circulated a Guidance Manual on the treatment of persons deprived of liberty in penitentiary facilities during the pandemic.

Togo: To be able to inform parents about the whereabouts of their children, CACIT negotiated access to children brought to detention centers. They collected their names and addresses and subsequently got in touch with parents, either in-person at their homes, or by phone, to inform them that their child was detained.

Nepal: To bridge the communication gap between children deprived of liberty in Child Correction Homes (CCH) and their families, *Advocacy Forum - Nepal* (AF) provided various sets of computers to three CCHs (there are eight CCHs in Nepal). The computers allowed the children to see and talk with their family members and lawyers through video conference, on a regular basis, after many months of isolation in the context of the pandemic. AF points out that regular family engagement opportunities and easy access to the lawyers, despite being the most notable problem of CCHs, are normally ignored by all stakeholders of the juvenile justice system. AF carries out regular monitoring and provides legal and medical assistance to the children held in CCHs.

V. RECOMMENDATIONS

Lockdown policies have brought to the fore the impact of isolation on societies as a whole. As pandemic related restrictions are lifted or adjusted, grave concerns persist with regards to highly restrictive and confined regimes prevailing in detention settings.

Prolonged isolation from the outside causes great suffering and has a severe impact on the mental and physical health of persons deprived of liberty. Measures effectively suspending or waiving the right to communicate with the outside world and, in particular, with family members can breach basic human rights and in particular may fall short of international standards regulating the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

The following recommendations are aimed at informing legal and advocacy strategies to uphold the right of persons deprived of liberty to communicate with the outside world and in particular with their families:

- ◇ As family contact is a basic right that ensures the dignity and well-being of persons deprived of liberty and protects the right to be free from torture and other ill-treatment, restrictions on family contact ought to be justified, short-term and exceptional.
- ◇ The anti-torture movement and other relevant stakeholders should urgently call for the lifting of closure policies on grounds of health, human rights, security and prison governance. CSOs have already deployed a wide array of legal, advocacy and emergency measures to prompt urgent action to restore the contact of detainees with the outside world, including in-person visits. NPMs and national human rights institutions (NHRIs) can also play a critical role.
- ◇ The principle of non-discrimination should be observed when lifting or easing Covid-19 restrictions. Covid-19 related restrictions in detention settings should be aligned to the gradual removal of restrictions for the general population.
- ◇ Prison and detention authorities should guarantee in-person visits as the main form of contact. Detained children should under no circumstance be prevented from frequent and meaningful contact with their families. While video calls and remote communication systems have been and should be promoted as a complementary means for detainees to secure meaningful and regular contact with the outside world, they should not replace in-person visits.
- ◇ Individuals whose tech literacy is low should not be deprived of using remote communication technology and should be provided with support from staff to enable them to connect with their outside support system.

- ◇ Visits should be tailored to the needs of children based on their developmental stage, including the specific needs of children with disabilities.
- ◇ Remote communication equipment and facilities should be available, on a frequent basis, to all persons deprived of liberty without discrimination. They should be free of charge or it should be ensured that everyone can access them on a regular basis. They should also be child friendly, to allow for effective videoconferencing with children that meets their developmental needs. Some level of confidentiality should be ensured to enable spontaneous and private conversations. Any interference with privacy must not be arbitrary or unlawful.
- ◇ Prison and detention authorities need to adopt and enforce protocols and measures that provide the conditions which enable in-person family visits. These measures include the vaccination of persons deprived of liberty, free of charge Covid-19 testing of visitors, adequate facilities to ensure privacy and intimacy and a sufficient supply of personal protective equipment.
- ◇ Persons deprived of liberty who have been subject to isolation from their families and social networks should be entitled to compensatory measures. Access to mental health services is paramount and should be guaranteed and scaled for detainees and their families.

NOTES AND REFERENCES

1. Among the initial recommendations issued by the World Health Organisation (WHO), it mentioned that “[m]easures that may be considered include, as appropriate, restriction of family visits, reducing visitor numbers and/or duration and frequency of visits, and introduction of video conferencing (e.g. Skype) for family members and representatives of the judicial system, such as legal advisers”. It warned that “temporary suspension of on-site prison visits will need to be carefully considered in line with local risk assessments and in collaboration with public health colleagues”. See: Regional Office for Europe, World Health Organisation, *‘Preparedness, prevention and control of Covid-19 in prisons and other places of detention’*, 202, pp. 21-22.
2. The Covid-19 Crisis Action Group brings together 13 key experts and practitioners with vast knowledge of the wide array of normative and practical challenges that affect persons deprived of liberty to act as a steering wheel and advisory body incorporating the various dimensions and strategies to be rolled out in OMCT’s Covid-19 and detention work. The members are: Uju Agomoh (Nigeria), Nayomi Aoyama González (Mexico), Sarah Belal (Pakistan), Adam Bodnar (Poland), Enrique Font (Argentina), Osman Işçi (Turkey), Nika Kvaratskhelia (Georgia), Mohamed Lofty (Egypt), Sabrina Mahtani (Sierra Leone, United Kingdom), Susanna Marietti (Italy), Ranit Mishori (United States of America), Om Prakash Sen Thakuri (Nepal) and Ana Racu (Moldova).
3. The survey was answered by 61 civil society organisations and practitioners.
4. Reuters, *‘Analysis: Country by country, scientists eye beginning of an end to the COVID-19 pandemic’*, 3 November 2021.
5. One of the examples of the many countries where visits have not resumed and alternative communication systems remain precarious and costly is Honduras. CSOs report that it is estimated that a large percentage of the prison population, over 80%, have not had access to any means of communication nor contact with their families since March 2021. In Colombia, CSOs report that many prisoners are yet to receive any in-person / virtual visits since 23 March 2020. Patterns of de facto deprivation of communication with the outside world that preceded the pandemic have been exacerbated and their impact upon the well-being of detainees has multiplied. In Brazil, a survey conducted in April 2021 among relatives of persons deprived of liberty, prison officers and other sources, with 620 responses from 25 states, concluded that 73.8% of the persons deprived of liberty had not yet been allowed to receive visits since the pandemic started.
6. United Nations Office on Drugs and Crime, *United Nations Rules for the Treatment of Women Prisoners and Non-custodial measures for Women Offenders with their Commentary* (The Bangkok Rules) (2011), Rule 43.
7. See, among others, Inter-Agency Standing Committee (OHCHR and WHO), *Covid-19: Focus on persons deprived of liberty*, March 2020.
8. Flynn, C. et al. *‘Contact experiences and needs of children of prisoners before and during COVID-19: Findings from an Australian survey’*, *Child & family social work*, 10.1111/cfs.12873, 22 Aug. 2021.
9. United Nations General Assembly, *Convention on the Rights of the Child*, adopted by resolution 44/25, 20 November 1989, entry into force 2 September 1990, article 9.3.
10. United Nations General Assembly, *United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, Resolution 43/173, adopted on 9 December 1988, Principle 19.
11. United Nations General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, Resolution 70/175, adopted on 17 December 2015, Rule 58.
12. Minson, S., *‘The impact of COVID-19 prison lockdowns on children with a parent in prison’*, 2021, University of Oxford, p. 20.
13. Monash University, *‘Maintaining family contact during COVID-19: Describing the experiences and needs of children with a family member in prison’*, October 2020, p. 33.
14. Johnson L et al *‘Scoping review of mental health in prisons through the COVID-19 pandemic’*, *BMJ Open*, Vol. 11, Issue 5, 2021, p. 5.
15. Among the studies that have documented the deterioration of mental health due to reduced visitation, see: Minson, S., *‘The impact of COVID-19 prison lockdowns on children with a parent in prison’*, University of Oxford, 2021, p. 12.
16. Monash University, *‘Maintaining family contact during COVID-19: Describing the experiences and needs of children with a family member in prison’*, October 2020, p. 3.
17. Among others, see UNICEF, *Technical Note: COVID-19 and Children Deprived of their Liberty*, 2020, p. 9.
18. Johnson L et al *‘Scoping review of mental health in prisons through the COVID-19 pandemic’*, *BMJ Open*, Vol. 11, Issue 5, 2021, p. 3.
19. Johnson L et al *‘Scoping review of mental health in prisons through the COVID-19 pandemic’*, *BMJ Open*, 2021, Issue 5, 2021, p. 5.

20. Monash University, [Maintaining family contact during COVID-19: Describing the experiences and needs of children with a family member in prison](#), October 2020, p. 4.
21. "The re-entry of a parent following a period of isolation from the family has the potential to destabilise family structures and place strain on relationships "; extracted from: Minson, S., [The impact of COVID-19 prison lockdowns on children with a parent in prison](#), University of Oxford, 2021, p. 19.
22. In Venezuela, at least three persons died in prisons in the first segment of 2021 due to hunger and malnourishment. In the Centro Penitenciario Agroproductivo José Antonio Anzoátegui de Barcelona (Venezuela), with an overcrowding rate at 343.51%, the restriction of food parcels from families has had dramatic consequences in the face of the insufficient food provided by the prison authorities. In Senegal, civil society organisations have reported that food parcels continue to be suspended after the restrictions imposed at the outset of the pandemic. In Kyrgyzstan parcels from families were banned, which resulted in food shortage in prisons.
23. Johnson L et al [Scoping review of mental health in prisons through the COVID-19 pandemic](#), *BMJ Open*, Vol. 11, Issue 5, 2021, p. 5.
24. Zweig S et al [Ensuring rights while protecting health: The importance of using a human rights approach in implementing public health responses to COVID-19](#), *Health and Human Rights Journal*, Volume 23/2, December 2021, pp. 173-186.
25. Inter-American Commission of Human Rights, [Public Hearing 'The situation of persons deprived of liberty in the Americas'](#), requested by the Litigators' Group against Torture in Latin America, 28 October 2021.
26. For visits in prison facilities between inmates and his/her immediate family member(s) in a private housing unit (which may last up to 48 hours).
27. <https://www.doc.wa.gov/corrections/incarceration/visiting/prison-visits.htm>
28. For instance, in Russia, while the restrictions on rights and freedoms can only be imposed by federal law, no federal laws have been adopted. Departmental orders, such as those of the regional penitentiary services or those of the chief sanitary doctor of a city, have been adopted to declare quarantines and other measures restricting human rights in places of detention.
29. General Comment 14 to the International Covenant on Economic, Social and Cultural Rights (ICESCR) further emphasizes that States have "the burden of justifying such serious measures" with respect to "demonstrat[ing] that restrictive measures are necessary to curb the spread of infectious diseases so as to ultimately promote the rights and freedoms of individuals."
30. World Health Organization, Regional Office for Europe, [Preparedness, prevention and control of Covid-19 in prisons and other places of detention](#), 15 March 2020, pp. 21-22.
31. Committee on the Rights of the Child, [Report and recommendations of the Day of General Discussion on "Children of incarcerated parents"](#), 30 September 2011.
32. University of Essex, Penal Reform International, [Contact with the outside world](#), 2016.
33. See, for instance, Scottish Prison Service, [COVID-19 Pandemic Plan](#), Updated April 2021.
34. Monash University, [Maintaining family contact during COVID-19: Describing the experiences and needs of children with a family member in prison](#), October 2020, p. 33.
35. From the [Organisation for Economic Cooperation and Development \(OECD\): the digital divide is the "gap between individuals, households, businesses and geographic areas at different socio-economic levels with regard to both their opportunities to access information and communication technologies \(ICTs\) and to their use of the Internet for a wide variety of activities."](#)
36. CNN, [Connecticut become first state to make calls free for inmates and their families](#), 23 June 2021.
37. Source: Observatory of the Penal System and Human Rights - University of Barcelona (OSPDH), [Final report on the management of coronavirus in Spanish and Catalan penitentiary centers: monitoring the deprivation of liberty and the police activity during the emergency of Covid-19](#), March 2020-May 2021, pp. 12-14.
38. Based on visiting guidance (in force) set out by Scottish Prison Service, [COVID-19 Information Hub](#).
39. Cubicle, box or non-contact visits have been described as being associated with distress for children and child behaviour problems (Monash University, [Maintaining family contact during COVID-19: Describing the experiences and needs of children with a family member in prison](#), October 2020, p. 3).
40. Xumek, [Comunicado de prensa: habeas corpus colectivo y correctivo ante la situación de emergencia por el COVID-19](#), 1 April 2020.
41. CACIT and OMCT, [Togo: Les visites familiales aux détenus doivent reprendre](#), 28 September 2021.
42. See, for instance, the Observatory for the Protection of Human Rights Defenders (OMCT-FIDH), [India: Denial of phone calls to defenders detained in Maharashtra State](#), Urgent Appeal IND 002 / 1121 / OBS 119, 17 November 2021.

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