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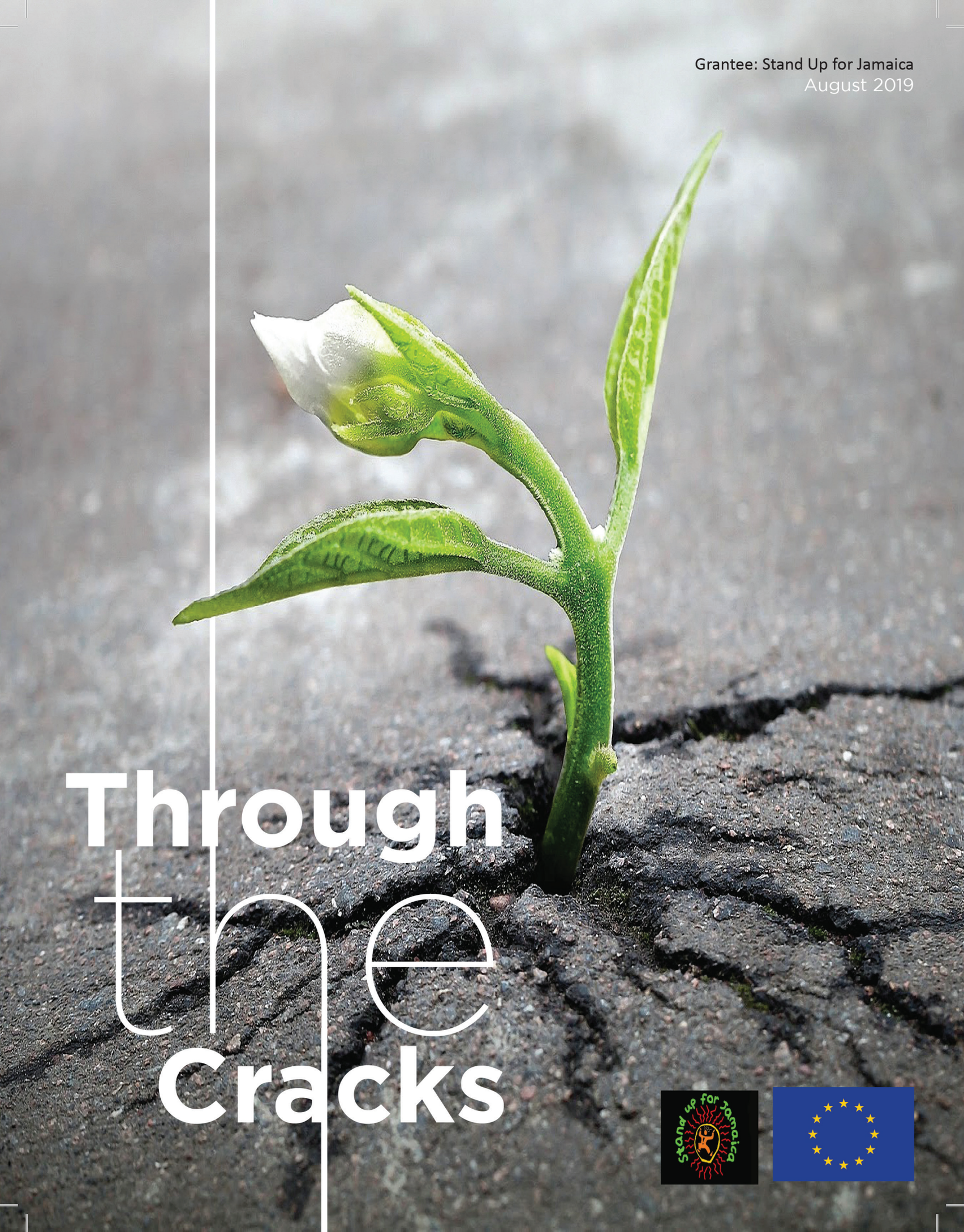

Through the Cracks

Comparative Report on Strategies Used to Address the Rights of Mentally ill Populations in Prisons

European Instrument for Democracy and Human Rights - Country Based Support Schemes in Jamaica and Belize

Implementing Agency: The European Union Delegation to Jamaica

List of Abbreviations & Acronyms

BVH: *Bellevue Hospital*
CBC: *Community Based Care*
CO's: *Correctional Officers*
CCPA: *Child Care and Protection Act*
CCTV: *Closed Circuit Television*
CMC: *Case Management Classification*
CSC: *Correctional Services Canada*
DAPA: *Diversion at the Point of Arrest*
DCS: *Department of Correctional Services*
EM: *Electronic Monitoring*
GPS: *Global Positioning System*
IACHR: *Inter American Commission on Human Rights*
ICCPR: *International Covenant on Civil and Political Rights*
IIP: *Individual Intervention Plan*
IV: *Independent Visitors*
JFJ: *Jamaicans for Justice*
MOJ: *Ministry of Justice*
MNS: *Ministry of National Security*
NCCN: *National Council for the Control of Narcotics*
NHF: *National Health Fund*
NMC: *National Monitoring Centre*
NMS: *National Minor Service*
NPM: *National Preventative Mechanism*
NRS: *National Rehabilitation Strategy*
SMO: *Senior Medical Officer*
TOR: *Terms of Reference*
PMC: *Prisoner Management Classification System*
UNODC: *United Nations Office on Drugs and Crime*
WRS: *Work Release Schemes*

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Introduction

Mental illness is a public health concern with which many countries continue to struggle. The imperative of ongoing care required for mental health cases places an additional burden on health systems, particularly as it regards the specialist skills and competencies required to treat with these cases. Given that prisons are a microcosm of the society, mental health and mental illness as unique features of a correctional system, represent significant challenges not only for prison authorities but also for the wider public health system. The oppressive and often-times violent environment of correctional facilities tends to exacerbate issues of mental health and create a number of vulnerabilities which are even more difficult to address behind bars.

Mental illness in prison has to be thought of on two fronts. Firstly, there are inmates who enter prison with a mental illness and then there is another class of inmates who develop a mental illness during their time behind bars. For the mentally ill who are deemed unfit to plead, there is little disagreement that they should not be placed behind bars nor should they be institutionalized but should rather be diverted to appropriate treatment facilities. As it regards inmates who may develop a vulnerability towards mental illness, the role of prison medical service in identifying and requesting the removal of these inmates should be standard practice.

Developments in the treatment and care of mentally ill inmates is advancing towards achieving the goal of having the mental health services offered in prison mirror those offered in the normal health care system. Mental health services cover the range of psychosocial and pharmacological therapies, either individual or group, including biological, psychological and social, to alleviate symptoms, attain appropriate functioning and prevent relapse.

The availability of comprehensive mental health services,

as described above, behind bars is, across many correctional systems, a function of the culture and developmental stage of the respective countries in which these systems operate. The attitude of a country's citizens towards mental illness as a healthcare issue and towards the human rights of prisoners in general are also influencing factors.

Correctional administrators, in exercising their duty of care, must recognize that the imperative for the safeguarding of human rights of prisoners as enshrined in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)[1] and other international conventions extends to mentally ill inmates and that medical services should be delivered without prejudice.

While international scrutiny and the work of human rights activists have inculcated a greater focus on human rights issues behind bars, the treatment of mentally ill prisoners remains a significant concern. Despite the efforts of correctional administrators, mentally ill inmates will continue to present a significant challenge because of the danger they pose not only to other prisoners and correctional officers but also to themselves. Because of the unique risk they pose to security and the burden of ongoing treatment and care, correctional administrators have struggled to meet the individual needs of this class of inmates.

The challenge posed by mentally ill inmates is reflected in the fact that most correctional officers have not received training to deal with these prisoners. Correctional officers, therefore, have little option other than being reactive in their approach to restrain and subdue mentally ill inmates who have violent episodes. Given the lack of resources to address their needs, mentally ill inmates are often-times segregated and receive little if any access to rehabilitation programmes and services.

These are issues which plague correctional services in Jamaica and puts the country at risk of violating basic human rights provisions enshrined in international law. Jamaica is, however, not unique in the challenge it faces in respect of mentally ill inmates and as such has

"...challenge posed by mentally ill inmates is reflected in the fact that most correctional officers have not received training to deal with these prisoners."

[1] *UN General Assembly, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules): resolution / adopted by the General Assembly, 8 January 2016, A/RES/70/175, available at: https://www.refworld.org/docid/5698a3a44.html [accessed 8 October 2019]*

an opportunity to learn and adopt best practices from other countries.

This research report is being prepared in the hopes that greater awareness of the challenge of mentally ill prisoners will inspire a willingness to seek solutions and bring about a change in the way these inmates are treated within the correctional system.

The report takes as its primary impetus, an evidenced based approach to the development of penal policy which influences behavior and practices which safeguards the human rights of all inmates, particularly the most vulnerable.

The aim of this desk research is, therefore, to identify and explore the needs and experiences of mentally ill persons in prison.

Its objectives are to:

- Present what is known internationally about the experiences and needs of mentally ill prisoners
- Identify examples of best practice in prison and penal policy as it regards mental illness
- Analyze the needs of mentally ill prisoners in Jamaica from an equality and human rights perspective; particularly as it regards access to mental health treatment and services

The report is organized as follows: Section 1 provides a general overview of mental illness in Jamaica and addresses, from a global perspective, issues relating to the mentally ill as a special prison population.

Section 2 comprises a comparative scan of best practices as it regards the treatment of mentally ill inmates while Section 3 presents a situational analysis of the mentally ill who currently reside in Jamaica's correctional facilities. The section offers recommendations based on the best practices highlighted in section 2 and also concludes the report.

Mental Illness in Jamaica

A number of scientific and psychiatric assessments of representative segments of the Jamaican population have found that the prevalence of mental illness indicates that one in four Jamaicans will develop a mental illness at some point during their life[2]. A 2011 study by pre-eminent Jamaican psychiatrist, Professor Frederick Hickling found that at least 40% of the population suffers from some degree of mental illness.

Furthermore, the Psychiatric Nursing Aide Association of Jamaica has, based on the trend in the number of patients being treated, forecasted that the number of mental health cases could double over the next ten to fifteen years given the desperate socio-economic conditions which Jamaicans face[3].

According to the Hickling Study, the disorders which are most prevalent in Jamaica are schizophrenia, depression, anxiety and bipolar disorders, with schizophrenia having the highest prevalence. There has, in recent times, been a significant increase in the number of persons visiting health care facilities across the island to receive treatment for a mental health condition. According to Ministry of Health data, the number of persons that were treated for a mental health condition grew by 6.27% between 2013 and 2016, moving from 90,000 to 108,000 over the period[4].

When disaggregated, of the 108,000 persons that were treated for mental health issues in 2016; 83,438 were treated for schizophrenia/psychosis, 2,521 of the cases were of child/adolescent disorders and1,888 consisted of mental disorders[5].

With the increase in the number of Jamaicans being treated for mental health challenges comes the associated cost to the health system. An estimated $1.7 billion was spent by the Ministry of Health on treatment for mental health between 2013 and 2014, with $1.3 billion of this amount accounting for staff

[2] *The Star Newspaper (2016). Mad in Jamaica - One in four will develop mental illness. Retrieved from: http://jamaica-star.com/article/news/20161014/mad-jamaica-one-four-will-develop-mental-illness*

[3] *The Jamaica Observer Newspaper (2017). Mental Illness Worry- Professionals say data suggest doubling of cases in 10 years. Retrieved from: wwwjamaicaobserver.com/front-page/mental-illness-worry-professionals-say-data-suggest-doubling-of-cases-in-10-years_99700*

[4] *The Jamaica Gleaner Newspaper (2016). Mental emergency! - More than 107,000 Jamaicans treated for psychological issues last year. Retrieved from: http://jamaica-gleaner.com/article/lead-stories/20160522/mental-emergency-more-107000-jamaicans-treated-psychological-issues*

[5] *Ibid*

costs, $193 million for medication and $165 million for other related expenses[6]. Jamaica spends, on average, 6% of its health budget on mental health which compares favourably to the global average of 1%[7].

Mental health services in Jamaica is governed under the Mental Health Act (1997). Development of policy, standards and legislative changes falls under the auspices of the Mental Health Unit within the Ministry of Health. Regional Mental Health Review Boards operate within the four regional health authorities as monitoring and investigative bodies for mental health facilities within their respective regions.

The treatment of mental illness generally takes place in the community out-patient section of primary health care facilities (health centres) and also in general hospitals classified as Type B facilities. In-patient care takes place at the Bellevue Hospital, the psychiatric units of the University Hospital of the West Indies and the Cornwall Regional Hospital. The University Hospital of the West Indies and the Cornwall Regional Hospital have a combined bed capacity of 40 that is dedicated to mentally ill patients. Patients are, however, often referred to the Bellevue Hospital due to the lack of available beds at many hospitals; the Bellevue Hospital has a capacity of 800 patients.

The main mental health facility in Jamaica for the treatment of severe cases of mental illness, the Bellevue Hospital (BVH), has over the past 50 years experienced a 50% reduction in its population due to greater provision of community mental health services[8]. This is in keeping with the significant medical evidence which suggest that institutionalization is ineffective in the treatment, care and rehabilitation of the mentally ill. Despite the reduction in its patient count, the continued operation of BVH, has remained a concern for human rights activist and mental health professionals because of the challenges posed by institutionalization of the mentally ill. BVH is the largest psychiatric facility in the English-speaking Caribbean.

The average annual budget and expenditure at BVH is

[6] *Ibid*

[7] *Abel, Kestel, Eldemire-Shearer, Sewell, Whitehorne-Smith (2012), Mental Health Policy and Service System Development in the English-speaking Caribbean, West Indian Medical Journal 2012; 61 (5): 475*

[8] *Ibid*

$1.2 billion. Between 2010 and 2015, the average number of out-patients treated at BVH was 4336 while the average number of in-patients was 790. 73% of these cases was for the treatment of schizophrenia[9].

Assessment of the 795 in-patients at BVH in 2016, found that 85% of them did not require hospitalization and were at the facility as a result of being abandoned by their family members. Patients have remined institutionalized even after their discharge. Of a sample of 107 cases which were reviewed, it was found that 13 patients have been institutionalized for periods between 21 and 35 years and 27 between 10 and 20 years[10].

The prolonged institutionalization of patients at BVH has limited the number of new patients that can be admitted to the hospital. Between June 2013 to January 2016, a total of 494 new patients were denied the opportunity for admission due to the unavailability of beds. BVH admitted on average 999 patients annually; the number of admissions declined from 1,046 in 2010 to 991 in 2015[11]

While the provision of out-patient mental health services in primary health care facilities has served to reduce the patient population at BVH, there is limited availability of beds to provide for admission of mentally-ill patients closer to home and within the community so that their rehabilitation and reintegration can be seamlessly facilitated.

This lack of community-based in-patient care, where patients can be visited by family and maintain their connection to the community, has been deemed as a violation of the international human rights instruments[12]. Mental health policy guidelines released by the World Health Organization (WHO) call for the least restrictive alternative for treatment to be offered to mentally ill patients to ensure that that they are treated in settings that minimally affect their personal freedom, status, work and engagement in their community[13]. The policy guidelines were crafted to provide policy makers with concrete applications of the international human rights instruments in the provision of mental health services.

[9] Auditor General's Department ([2016]), Auditor General's Department Performance Audit Report of the Ministry of Health Management of Mental Health Services, Rehabilitation and Reintegration of the Mentally Ill.

[10] Ibid

[11] Ibid

[12] Ibid

[13] World Health Organization (2003). Mental Health Policy and Service Guidance Package: Mental Health Legislation and Human Rights. WHO.

In recognition of the fact that community mental health care is woefully inadequate, the Mental Health Unit in the Ministry of Health has embarked on the process of improving the legislative and policy framework to allow for a greater focus on community mental health care. To this end the unit has proposed and promulgated significant amendments to the Mental Health Act of 1997. The revision of the act is a major priority within the Ministry of Health's strategic plan. The proposed amendments are currently undergoing stakeholder consultation among mental health professionals and other relevant stakeholders. The Ministry of Health is also in the process of developing a Mental Health Policy aimed at establishing a framework to promote and improve the provision of comprehensive community-based mental health services.

It should be noted that the Mental Health (Public Psychiatric Hospital) (Bellevue Hospital) Management Scheme 2013.This law states that BVH must evaluate voluntary and involuntary patients on entry into BVH to see if they require immediate treatment and if they pose a danger to other or themselves. If they do not, then they can be treated as an out-patient or referred to a community mental health clinic nearest to his place of residence.

The Mentally Ill as a Special Needs Prison Population

Correctional facilities can in many respects be likened to mental health institutions because of the impact their hostile environment can have on the psychological and mental well-being of inmates. Prison does in fact present a unique vulnerability for many individuals as it regards their tendency towards mental illness as studies have

shown that there is a high prevalence of mental disorder among prisoners, particularly those on remand[14] [15]. Isolation from society, poor prison conditions, overcrowding and lack of safety induce distress, depression and anxiety in most prisoners, which may develop into more serious mental disabilities.

The data on mental illness behind bars is indeed staggering. A global study of 23,000 inmates across 12 countries concluded that, when extrapolated to the global prison population, the high incidence of mental illness among the sample indicates that there are more than a million incarcerated persons suffering from some type of mental disorder[16]. In Europe, the estimate for the number of inmates with mental disability sits at around 40% while in the United States more than 50% of prisoners have received or are receiving treatment for depression, mania or a psychotic disorder. In Australia, 80% of the prison population has been diagnosed with a mental disability compared to 31% of the general population[17].

If prisons can induce the onset of depression and other mental disorders for inmates that did not previously suffer from these conditions, then one can only imagine how the difficult environment of incarceration can aggravate and result in the further deterioration of the mental health of inmates who were previously diagnosed with a verifiable mental illness before being sentenced to serve time.

Apart from the environmental conditions of prisons which affect the mental health of inmates, the global increase in the number of inmates with mental health issues can also be attributed the lack of sufficient mental health services and facilities which has resulted in persons acquitted by reason of mental defect still being placed behind bars in violation of the Rule 82 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules).The general perception of the mental ill as a danger to the public and as persons who should be locked away is a cultural misconception that has also fuelled the increased incarceration of persons with mental disorders.

Interestingly in some countries, particularly, the United States, the deinstitutionalization of mental health services, which was introduced as a best practice model in

[14] Maden A, Taylor CJA, Brooke D, Gunn J. (1996) Mental disorder in remand prisoners. London: Home Office Research and Statistics Directorate.

[15] Birmingham L, Mason D, Grubin D. (1996) Prevalence of mental disorder in remand prisoners: consecutive case study. BMJ; 313:15214

[16] Fazel S., Danesh J. (2002) Serious mental disorder among 23,000 prisoners: systematic review of 62 surveys. Lancet, 359, 545_550.

[17] White, P. and Whiteford, H. (2006), Prisons: mental health institutions of the 21st century? MJA; 185(6);302_303.

the provision of mental health care and treatment has actually resulted in a greater number of persons with mental illnesses being sent to prison. Prisons have, in this respect, become substitute mental health facilities due to the closured and phasing out of institutional mental health care[18].

As more countries undergo phased closures of institutional mental health facilities, prison authorities will continue to have the challenge of mental illness behind bars and as such there is an imperative to recognize that mentally ill inmates, despite their incarceration, have a right to psychiatric treatment and long-term care.

The mentally ill prison population has to be considered and treated as a priority by correctional administrations so that they can provide them with the services that meets their needs and upholds their fundamental human rights.

A primary need, and a low hanging fruit, is for the mentally ill to be provided with access to legal services. It is surprising the role a good lawyer can play in either overturning or reducing the sentence someone with a mental illness has received. One of the main reasons the mentally ill end up in prison in the first place is a lack of legal representation. If they were not able to access legal services outside of prison, then this situation become exacerbated by their incarceration because of the inherent discrimination they face, their inability to be sufficiently aware of their legal rights without assistance, stigmatization and neglect by family members and prison authorities[19]. The special need that mentally ill inmates have for access to legal services is demonstrated by the fact that studies have shown that defendants with mental disorders, inclusive of intellectual disabilities, plead guilty more readily, are more likely to confess to a crime even if they are innocent, are more easily coerced into confessing to committing and offense and are more times than not convicted of the crime for which they were charged rather than a reduced charge[20].

Mentally ill inmates also have a need for an environment

[18] *Daniel (2007), Care of the Mentally Ill in Prisons: Challenges and Solutions. The Journal of the American Academy of Psychiatry and the Law, 35:406–10, 2007.*

[19] *United Nations Office on Drugs and Crime (2009), Handbook on Prisoners with Special Needs. United Nations.*

[20] *Goobic, D., The Arc of New Jersey Developmentally Disabled Offenders Program. (www.arcnj.org)*

conducive to rehabilitation and recovery. The standard practice is for inmates with mental illness to be separated from the general population and placed in a separate area of a correctional facility. This has proven to be problematic because these areas are often sub-par in terms of the amenities provided and general living conditions; these areas are, in most cases, in violation of the international human rights instruments and foster an atmosphere of frustration, abuse and the degradation of the personhood and humanity of the mentally ill inmates who are housed in them[21].

It is not difficult to make the connection between the further deterioration of the mental condition of mentally ill inmates and the sub-par conditions of the separate areas in which they are housed within a correctional facility. Prisons are already hostile and challenging environments without the additional burdens posed by the inferiority of the segregated areas in which the mentally ill are housed. Furthermore, inmates may be restrained by chains and other inhumane implements that are prohibited by the international human rights instruments.

The need for mentally ill inmates to be provided with mental health care services equivalent to that provided in the national health care system should go without saying but the health services of most prisons generally lack the necessary resources, are often understaffed and poorly funded. Most correctional authorities worldwide are unable to provide mental health services for inmates. The need for targeted and comprehensive psychiatric treatment for mentally ill inmates cannot be over-emphasized. This begins with adequately screening and assessing inmates upon admission so that their illness can be known, and appropriate treatment plans designed[22].

Mentally ill inmates require individualized specialist care from a team of mental health professionals, including psychiatrists, psychologists, counsellors, nurses and occupational therapists. For those inmates with intellectual disabilities there will be a need for special health care services, such as behavioural therapy, speech therapy, occupational therapy and physiotherapy[23].

Persons with mental illness are at risk of human rights abuses and as such require specially trained staff who

“Mentally ill inmates require individualized specialist care from a team of mental health professionals...”

[21] *United Nations Office on Drugs and Crime (2009), Handbook on Prisoners with Special Needs. United Nations.*

[22] *Ibid*

[23] *Ibid*

understand their particular disorders and how to treat with them.

Comparative Strategies for the Mentally ill in Prison

The seminal international human rights instruments which governs the treatment of mentally ill prison populations are the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules), the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health and the Convention on Persons with Disabilities. These instruments serve as the basis for the development of best practices and a human rights-based approach as it regards mentally ill inmates. The instruments take as their starting point the inherent humanity of the mentally ill and calls for the recognition of their right to be treated with dignity and to be protected from degrading and inhumane treatment and punishment.

As it regards the treatment of the mentally ill before the courts, The Principles for the Protection of Persons with Mental Illness and the Improvement of Mental states in Principle 20 states: Domestic law may authorize a court or other competent authority, acting on the basis of competent and independent medical advice, to order that such persons be admitted to a mental health facility

A starting point in the comparison of the laws, policy approaches and best practices of other countries on the treatment of mentally ill in custody of the state is to define the boundary between mental ill health and criminality. Along this vein, legislation and policies in most developed countries focus on:

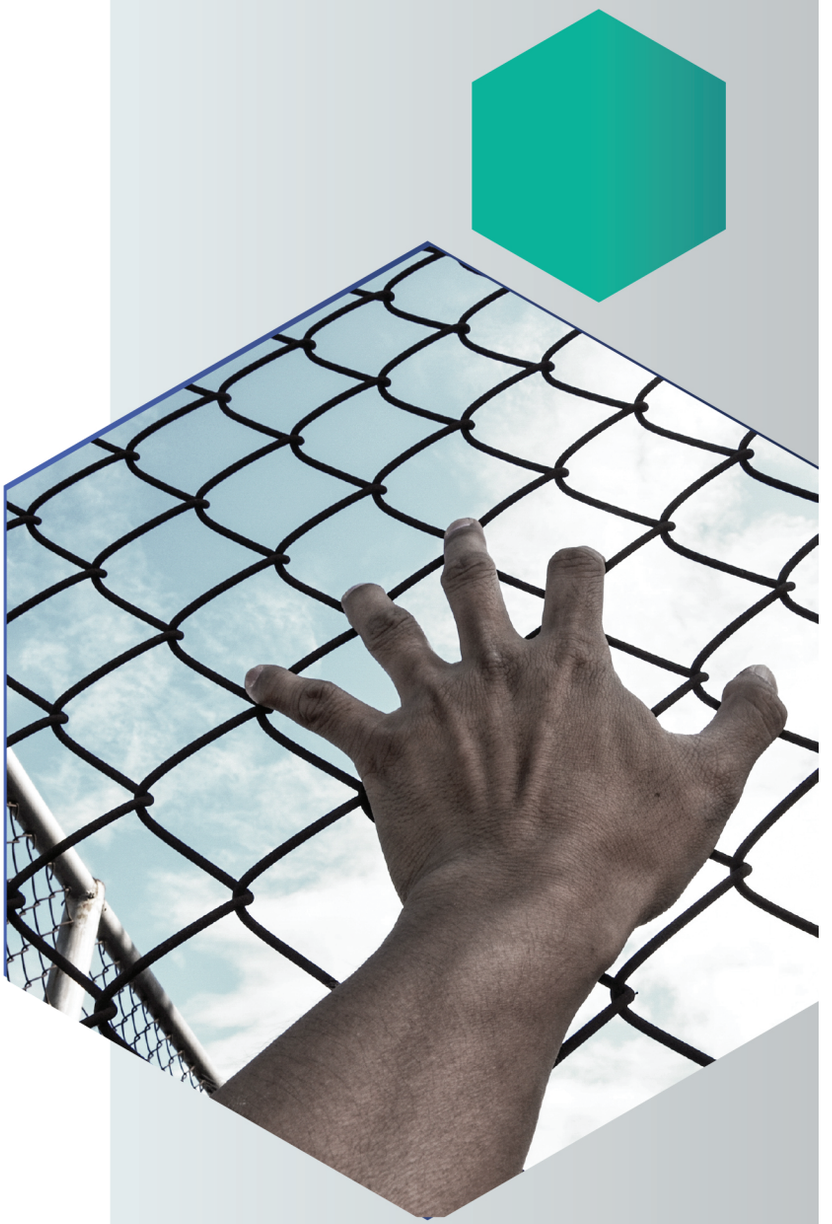
1. Classifying behaviour as mentally ill: Identifying the mentally ill is the first step in prescribing the appropriate actions and treatment to be provided by the State.

2. Identifying suitable treatment: After assessment, the laws prioritize identifying appropriate health treatment, suicide risks and placement in suitable facilities (hospital, remand or prison).

This comparative review will highlight what obtains in Scandinavia, Europe, Canada and the United States of America.

The Canadian Correctional Service has promulgated a Mental Health Strategy which is based on the principles of non-discriminatory, community-based, continuous care for the mentally ill. The policy aims to create an environment which promotes wellness and reduces stigma against the mentally ill so that mental health services can be delivered effectively. The first step in this process is the provision of information and resources to inmates which informs them of the services and programmes available within the correctional system to support their mental, emotional and social well-being. Staff within the Canadian Correctional Service then receive training and resources aimed at reducing the discrimination against inmates with mental illness and equipping them with the necessary tools to treat with these individuals. Another key component of the mental health strategy is the establishment of support groups for mentally ill inmates[24].

As it relates to screening and assessment, the strategy emphasizes early identification and ongoing assessment of mental health needs. Initial screening of all inmates is conducted to identify mental health problems. Ongoing evaluation is conducted every quarter and after comprehensive assessments, inmates who present with mental challenges are refereed for psychiatric attention within the national health system[25]. In respect of treatment, the strategy stipulates that treatment should only be provided by trained and qualified health professionals. Individualized treatment plans are written and reviewed regularly by health professional. To ensure that treatment is effective, the strategy has seen the



[24] *Canadian Correctional Service (2010). Mental Health Strategy for Corrections in Canada. Federal-Provincial-Territorial Working Group in Mental Health (FPT WGMH).*

[25] *Ibid*

establishment of conducive therapy and establishes a system were mentally ill inmates are placed in prison environments which are therapeutic[26]. The strategy further speaks to suicide and self-harm prevention and management. This is addressed through the screening process at intake and though placement of those at risk in purpose-built housing where they can be monitored.

In the Scandinavian and European models of mental health care for mentally ill inmates, the community care model is the most prominent. This model of mental health care emphasises the need for inmates to be treated within their communities rather than within an institutionalized setting. Mentally ill defendants are diverted away from the criminal justice system to day care centres where they can receive the care they need. The focus of care is the provision of support to the families of the mentally ill so that they can properly care for them. The day care centres serve as rehabilitation facilities where the offenders go to learn a practical skill and be engaged in some productive activity. This eases the pressure off the families who will only need to care for them at nights. For offenders with severe mental illness, half-way houses have been established where they can receive long term care from a team of mental health professionals.

Every state in America has polices which address the classification and treatment of inmates with mental illness. New York State has five different levels of mental health service across its network of correctional facilities and mentally ill inmates are placed at facilities which correspond with the level recommended by their intake assessment. The classification of inmates is based on the level of mental health service provided by each correctional facility. In level one facilities, Office of Mental Health (OMH) staff is assigned on a full-time basis and comprehensive psychiatric services are provided. Level two facilities also have OMH staff assigned on a full-time basis, however, they are not full-service facilities and can only treat with conditions that are not as severe as those assigned to level 1. In level three facilities OMH staff is assigned on a part-time basis and the facility can only treat patients with moderate conditions or who are in remission from a

[25] *Ibid*

disorder. Level four facilities also have OMH staff assigned on a part-time basis and are able to treat patients who require little intervention. Level five facilities have no OMH assigned staff[27].

A novel practice in respect of criminal justice programmes and interventions for the mentally ill in the United States is the operation and promulgation of mental health courts (MHC). These courts are based on a partnership between the justice system, mental health professionals and social services providers. Akin to special purpose courts such as drug and re-entry courts; they replace traditional court procedures and offer therapeutic intervention and problem-solving solutions for mentally ill offenders. The court operates by identifying suitable candidates through mental health assessments ordered by other courts and placing them in judicially supervised treatment programmes developed jointly by judicial and medical staff. MHCs are categorized as either following the pre-adjudication model, where prosecution is deferred until the defendant completes the treatment programmes, or as following the post-adjudication model in which a guilty plea is obtained from the defendant as a pre-condition for their participation in the treatment programme. MHCs also differ in respect of whether or not they use clinical or legal eligibility as the basis for accepting candidates. Legal eligibility specifies particular offences which make an offender eligible for the programme while clinical eligibility specifies particular disorders as the basis for eligibility. The effectiveness of MHCs has been affirmed by a randomized controlled trial (RCT) of 50 offenders who participated in MHC programmes and 43 control individuals who did not. The study, which was conducted in California, found that there was a statistically significant improvement in the clinical outcomes for those offenders that had participated in MHC programmes[28].

By facilitating early intervention and diverting mentally ill individuals from potentially harmful experiences in the criminal justice system, MHCs provide a practical platform to decrease the number of mentally ill offenders in correctional facilities while linking defendants to effective treatment and support community-based programmes.

[26] *Kim, Becker-Cohen, Serakos (2015). The Processing and Treatment of Mentally Ill Persons in the Criminal Justice System. Urban Institute.*

[27] *Ibid*

[28] *Ibid*

Situational Assessment of Mentally ill Prison Populations in Jamaica

There are seven (7) adult and four (4) juvenile institutions in Jamaica. The Department of Correctional Services (DCS), under the portfolio of the Ministry of Justice, is responsible for managing correctional facilities. DCS is headed by the Commissioner of Corrections who, along with other relevant officials (e.g. Assistant Superintendents and Superintendents of Correctional Centres), have direct control and responsibility for the treatment of persons held in custody.

The figures for the number of mentally ill inmates in Jamaica's correctional institutions has hovered around the 300 mark for the past eight years. As at January 2018, there were 313 persons with mental illness behind bars, down from the 317 reported by the DCS in 2001[29].

Within the criminal justice system, persons with mental disorders are often arrested where there is little or no evidence of an offence and are frequently deprived of their liberty for prolonged periods of time without due legal process. They are often detained in prisons for indefinite time periods, without any viable legal process for reporting on their condition or for a review of their detention[30].

The detention of mentally ill inmates for inordinate periods of time without due process is best illustrated in the case of Walter Blackstock, a 61-year-old ex-cop who was deemed unfit to plead when he was arrested in 1987 but was left behind bars for 31 years without a trial. These

[29] *The Gleaner Newspaper (2019). 300 more lost - Mentally ill inmates languish in prisons, casualties of state forgetfulness. Retrieved from: jamaica-gleaner.com/article/lead-stories/ - 20190531/300-more-lost-mentally-ill-inmates-languish-prisons-casualties-state*

[30] *Anderson and Sewell (2016). Proposal to the Mental Health Taskforce. Norman Manley Law School.*

gross miscarriages of justice appear to be a motif, in the Jamaican criminal justice system, as it relates to mentally ill inmates who often become lost in the system and fall through the cracks due to lack of legal representation and a failure of the authorities to follow up on their cases once they have been detained as unfit to plead[31].

According to the Director of Public Prosecution (DPP), the Criminal Justice Administration Act-which stipulates that persons deemed unfit to plead by reason of mental illness should be committed to a psychiatric facility or placed under a supervision/guardianship or treatment order-has not been adhered to, as persons unfit to plead have been routinely sentenced to serve time in correctional facilities in clear violation of the law[32]. This state of affairs points to a breakdown of systems in the courts which is, according to the DPP, further exacerbated by a lack of follow-up on the part of the DCS as it relates to communicating to the courts that the persons sentence to its correctional facilities have a verifiable mental illness and are not likely to be deemed fit to plead[33].

The wholesale neglect of the mentally ill by the entire criminal justice system is in part to be blamed on what perhaps could be considered as a faulty legislative logic that is embedded in the Criminal Justice Administration Act. Sections 25-28 of the Act empowers judges to order the remand of persons deemed unfit to plead in correctional facilities until they are fit to plead. The provisions of the section are presumably based on the incorrect assumptions that there are professionals within these institutions to treat the illnesses suffered by these detainees, these institutions are therapeutic environments and the person would in fact be sent back to court at some time[34].

It is indeed confounding that legislators in crafting the Criminal Justice Administration Act would not have been aware of the fact that there is only one forensic psychiatrist in Jamaica and that he is only engaged on a part-time sessional basis along with one other psychiatrist. With this serve shortage of psychiatric professionals it is highly unlikely that persons remanded as a result of being deemed unfit to plead would receive the care they need to recuperate so that they can be declared as fit.

"...persons unfit to plead have been routinely sentenced to serve time in correctional facilities in clear violation of the law..."

[31] *Jamaica Gleaner Newspaper (2019). 'Fallen through the cracks' - Court agents have ignored law on mentally ill inmates, DPP charges. Retrieved from: jamaica-gleaner.com/article/news/20190602/fallen-through-cracks-court-agents-have-ignored-law-mentally-ill-inmates-dpp? qt-article_image_vide...*

[32] *Ibid*

[33] *Ibid*

[34] *Anderson and Sewell (2016). Proposal to the Mental Health Taskforce. Norman Manley Law School.*

The Criminal Justice Administration Act also seems to have a distorted view of mental illness in that it ignores certain types of mental defects for which there is no cure per se and for which a person will consistently experience episodic behaviours that makes it unlikely that their designation of being unfit to plead will change to that of being fit. The Act also makes no determination of a suitable timeline for when a person deemed unfit should be declared fit and as such this contributes to the inordinate length of time that the mentally ill spend in correctional institutions without having received a proper trial.

Furthermore, the state of the physical infrastructure of the main intake facility, the Tower Street Adult Correctional Centre (TSACC), which has been around from the era of slavery, is certainly not an environment that is conducive to suitable therapeutic treatment. In fact, the hostile environment of TSACC is, no doubt, a factor which serves to further aggravate the condition of mentally ill inmates, limiting the chances of their recovery and ability to be declared fit to plead.

Section 25 E (5) of the Criminal Justice Administration Act makes provisions for semi-annual reports on the condition of mentally ill inmates to be furnished to the courts by the Commissioner of Corrections. This report is intended to serve as the basis by which the courts, having heard from the DPP and the inmate or their legal representative may vary, revoke or dismiss the order which was made for the detention of the inmate. As it stands, however, the evaluation reports are currently not being provided to the courts and as such inmates who could have easily secured their release have not been able to do so[35].

In March 2004, a multidisciplinary Task Force of the Section of Psychiatry of the Department of Community Health and Psychiatry, University of the West Indies, Mona Campus in Jamaica made a submission to the Jamaican Cabinet on the development of a community forensic psychiatric service in Jamaica. The Task Force, chaired by Professor Frederick Hickling, called upon the Government of Jamaica to promote a process of

[35] *Jamaica Gleaner Newspaper (2019). 'Fallen through the cracks' - Court agents have ignored law on mentally ill inmates, DPP charges.*

community health intervention, which would divert mentally ill accused persons from the criminal justice system to a community psychiatric service. This Diversion at the Point of Arrest (DAPA) is well within the legal framework of the Mental Health Act. However, such a system is yet to be implemented[36].

Mentally ill inmates, held in the TSACC, are currently separated from the general population and for the most part, are not included in rehabilitation programmes. The only psychiatric intervention received by these inmates is an occasional visit from the only forensic psychiatrist in the island. It is, however, doubtful if the mentally ill inmates will continue receiving this basic service due to the fact that the forensic psychiatrist has indicated that he can no longer provide sessional for the inmates because of his other professional commitments and severe time constraints[37].

The Department of Correctional Services has struggled to attract and maintain medical professionals and psychiatrist as members of the medical fraternity are averse to the work involved in completing the voluminous and numerous court reports required of the job and which they view as a laborious and poorly compensated task associated with the role of being a medical officer within correctional services[38].

"The only psychiatric intervention received by these inmates is an occasional visit from the only forensic psychiatrist in the island."

[36] *Anderson and Sewell (2016). Proposal to the Mental Health Taskforce. Norman Manley Law School.*

[37] *Interview with Director of Medical Services, Department of Correctional Services*

[38] *Interview with Director of Medical Services, Department of Correctional Services*

Conclusion and Recommendations

The situation for the mentally ill in Jamaica's correctional facilities is one which requires urgent attention. The approach taken towards mentally ill offenders has not only been in violation of the international human rights instruments but has also served to heighten the vulnerability of this already vulnerable population. The ideal long-term solution for the treatment of mentally ill inmates is for the establishment of a forensic psychiatric facility. Given the cost associated with building such a facility, it is not likely that one will be prioritized in government commitments for capital expenditure over the short to medium term. This report therefore offers the following recommendations as alternatives:

1. DCS should develop a comprehensive mental health care strategy which has as its main focus the recruitment, retention and competitive compensation of a qualified and skilled team of mental health professionals.

2. The Ministry of Justice should promulgate legislation for the establishment of Mental Health Courts.

3. The Diversion at the Point of Arrest system for the mentally ill proposed by the Professor Hickling led task force should be revisited and implemented for the mentally ill who have been assessed to not pose a danger to others or themselves.

4. Consideration should be given to legal provisions relating to procedures for questioning mentally ill persons held in custody. Mentally ill persons may not be competent to understand their situation in detention and may need to rely on family or guardians for assistance.

5. Specific provisions should be enacted in the

Constabulary Force Act and Corrections Act to explain the circumstances under which officials can restrict visitation or determine the manner in which visitation sessions are conducted.

Stand up for Jamaica is a not-for-profit organization founded in 2007 by a group of volunteers from Group 105 of Amnesty International Italy with the main purpose of providing practical help for Jamaicans, for the most part for court related costs and basic necessities for the inmates on death row in Jamaica's prisons.

Our current mandate is to enhance and maintain the human rights of all, particularly those who are from the vulnerable groupings – children, women, persons living in impoverish communities, inmates, persons infected and affected by HIV/AIDS, persons living with disabilities, etc, this is done by providing financial and non-financial support to our target populations, and to inform the general public about their rights!