
INTERNATIONAL SUMMARY

Sexual Abuse in Prison: A Global Human Rights Crisis

Sexual abuse in prisonⁱ is a global human rights crisis. In many cases, the perpetrators are prison staff, the very people responsible for keeping inmates safe. Whether committed by prison staff or by inmates, rape and other forms of sexual abuse in prison are recognized internationally as forms of torture. It is the absolute responsibility of government to protect the safety of inmates. Sexual abuse in prison, regardless of the perpetrator, represents a government's failure to uphold this responsibility.

In most countries, there are no official studies on the prevalence of sexual abuse in prison, and few inmates come forward to report that they have been abused. However, most observers of prisons acknowledge that this lack of formal reports does not mean that prisons are safe. On the contrary, former inmates, prison staff, and human rights advocates around the world agree that most victims of sexual abuse in prison still refrain from speaking out about their experiences –sometimes from feelings of shame, sometimes out of fear of retaliation, and sometimes simply because they believe that no help is available to them.

The Nature of Sexual Abuse in Prison

Sexual abuse in prison can take many forms and legal terms and definitions differ from one country to another, and, within many countries, from one region to another. Just Detention International (JDI) defines sexual abuse in prison as any unwanted sexual contact or threat by another inmate, and any sexual contact at all by a staff member, with or without penetration and regardless of the gender of the perpetrator or victim. Sexual abuse happens in both women's and men's prisons and perpetrators may be of the same or opposite gender as their victims.

Prisons around the world are rife with violence and rape. In order to survive, some inmates are forced to enter into relationships with more powerful inmates, in which they have to provide sex in exchange for protection. In many places, rape in prison is linked to organized prison gangs: victims are often "sold" among these gangs or forced into prostitution. Most victims are raped many times. News travels quickly inside prisons and, once raped, inmates are often marked as targets by other inmates and prison staff.

Often, it is prison staff, rather than inmates, who commit rape. In some cases, prison staff set up the rape of inmates by other inmates. In other cases, they demand sex in exchange for food, drugs, or the promise of favorable treatment. Some prison staff enter into what may seem like mutually willing sexual relationships with inmates. Even if the sexual activity is not forced, however, it is never okay for prison staff to have sex with inmates. Prison staff have complete power over inmates and can restrict their freedom or make their lives even more difficult. Under these circumstances, it is often impossible for inmates to refuse the demands of prison staff who wish to have sex with them.

Rape in prison can also be a tool of political repression. In these cases, a government, prison administrator, or prison staff member orders, or gives tacit approval for, the rape of inmates who are considered to be political opponents as a form of punishment or intimidation.

While anyone can be raped in prison, those who are perceived as weak are at especially high risk. They include: lesbian, gay, bisexual, and transgender inmates; young people or people of small build; first-time inmates; and nonviolent inmates. In men's prisons, hyper-masculine, misogynistic attitudes are widespread, meaning that perpetrators of sexual abuse are often considered strong – or manly – and victims are considered weak – or feminine. These attitudes make it extremely dangerous for rape victims to report abuse and seek the help they need. Even inmates who are not sexually abused are forced to adapt to an environment in which anyone not perceived to be dominant is at risk for rape.

No matter what form it takes, rape is an act of violence that is used to demonstrate dominance, power, and control. Rape is never the victim's fault.

Impact on Victims

Rape and other forms of sexual abuse, whether committed in the home, in the community, or in prison, have serious emotional and physical consequences. While every victim's experience is unique, there are many common reactions, including fear, shame, anger, anxiety attacks, nightmares, and flashbacks. For inmates, these symptoms are exacerbated by absence of privacy, lack of control over their environments and, often, by the continuing presence in the prison of the person who raped them.

In addition to the emotional cost of rape in prison, victims are exposed to HIV and other sexually transmitted infections that can be deadly. Many victims of sexual assault also suffer physical injuries such as broken bones; these injuries often go untreated. Female inmates may be at risk of pregnancy and may be forced to have abortions. Although immediate rape crisis counseling and medical care – including post-rape treatment to prevent sexually transmitted infections – can be very helpful, few inmates have access to such services.

Around the world, the vast majority of inmates are eventually released from prison, bringing all of their prison experiences – including trauma – back to their families and communities. Without help, victims of rape in prison are at high risk for developing chronic, long-term problems, like depression, suicidal feelings, and alcohol or drug addictions.

Because of the shame and stigma that can be associated with rape in prison, inmates may never tell anyone, including their spouses or sexual partners, about what happened to them – thus increasing the risk of transmission of HIV and other sexually transmitted infections. Many victims of sexual abuse in prison develop behaviors that harm themselves, their families, and their communities. Formerly incarcerated rape victims who have not learned to deal effectively with their emotional pain are far more likely to revert to risky or criminal behavior, are vulnerable to poverty, and face a high risk of returning to prison.

Despite these devastating consequences, physical and psychological recovery is possible. With support, victims of rape in prison can learn to deal effectively with their trauma, express their feelings in a way that does not cause themselves or others harm, and rebuild their lives. It helps many victims to know that they are not alone and that there are other people who also have experienced rape, yet who have been able to recover. In some cases, victims of rape in prison have become outspoken and successful human rights advocates and have found renewed meaning in their lives by working to ensure that others will not have to suffer the same abuses they did.

Preventing Rape in Prison

Rape in prison is preventable. This type of abuse is a result of bad policies, dangerous practices, and a lack of accountability among prison staff. Many prisons are able to prevent rape by taking basic precautions to protect inmates. For example, separating likely victims and likely perpetrators reduces rape in prison. Good training programs help prison staff learn how to keep inmates safe and properly investigate reports of rape. It is critical for prison leaders to make clear that sexual abuse, whether committed by staff or by inmates, will not be tolerated. In addition, victims must have safe ways to report rape, without suffering from retaliation or further abuse.

Rape is more likely to occur in prisons that do not allow, or that discourage, review of their policies and monitoring of their staff. In many prisons, staff who are in powerful positions are subjected to little or no oversight, and held accountable to

no one. To protect the safety of inmates, prisons must adopt strong internal monitoring systems, and be willing to undergo regular audits by external agencies. The data collected by both internal and external agencies on rape in prison should be made publicly available.

In 2012, the U.S. Department of Justice published a report estimating that more than 209,400 people were sexually abused in U.S. prisons in 2008. This estimate, based on extensive and rigorous data collection, has helped to draw widespread attention to the problem in the U.S.

Strong monitoring systems can also be implemented through binding international agreements. The Optional Protocol to the Convention Against Torture (OPCAT), an addition to the United Nations Convention Against Torture, requires signatory countries to establish independent, national agencies that conduct regular visits to prison with the aim of preventing torture. To date, 71 countries have ratified the OPCAT. Universal ratification of the OPCAT would improve both prison transparency and accountability, thereby reducing the occurrence of rape.

Along with improved practices and policies, a shift in public attitudes toward rape in prison must occur for this abuse to stop. Too often, the stigma of rape, or the belief that inmates deserve to be raped, prevents victims from speaking out about their abuse and getting the help they need. Victims must be able to speak freely about their experiences in order for the problem to be understood. Public attitudes that value the safety and dignity of all people, including inmates, make it easier for victims to talk about their abuse and, ultimately, will help stop rape in prison.

In the U.S., thanks to determined work by JDI and other human rights advocates, public attitudes about rape in prison have started to shift away from flippant, ill-informed stereotypes and toward a broader recognition that this abuse is a human rights violation.

About Just Detention International

Just Detention International is a health and human rights organization that seeks to end rape and other forms of sexual abuse in prison. JDI has three core goals for its work: to hold government officials accountable for rape in prison; to promote public attitudes that value the health and safety of inmates; and to ensure that victims of rape in prison get the help they need.

JDI was founded in 1980 by Russell Dan Smith, an American victim of rape in prison. Like Smith, many of the organization's early leaders were themselves victims of prisoner rape, including Stephen Donaldson and Tom Cahill.

Donaldson was raped repeatedly by other inmates after being arrested during an anti-war demonstration. A powerful writer, Donaldson drew national attention to the problem of rape in prison and coordinated JDI's amicus brief for the groundbreaking 1994 U.S. Supreme Court case addressing it, *Farmer v. Brennan*. Donaldson died in 1996 as a result of AIDS, having contracted HIV during a rape in prison.

Tom Cahill, a veteran human rights advocate and an anti-war protester, was also gang-raped by other inmates. Cahill became JDI's President in 1998, and his efforts to stop rape in prison culminated in the passage of the Prison Rape Elimination Act (PREA) of 2003, the first U.S. civil law to address this abuse.

JDI is the only organization in the world dedicated to ending this type of abuse. The organization's founders spoke out about rape in prison in the U.S. at a time when few others had the courage to do so. Their dedication has led to an increased awareness – in the U.S. and globally – of rape in prison, and has inspired many people to take action to oppose it. Today, victims of rape in prison continue to play an integral role in JDI's work.

The key principle for JDI's work is that when the government deprives a person of his or her freedom, it takes on an absolute responsibility to keep that person safe. Rape in prison can be prevented. Prisons with committed leaders, good policies, and sound practices are able to keep inmates safe. JDI develops laws and policies, works together with prisons to train their staff and educate inmates, and provides information to thousands of victims of rape in prison every year.

JDI seeks to form relationships with human rights advocates, prison staff, policymakers, providers of medical care and

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counseling, and victims of rape in prison globally, to help build local and national movements with the aim of ending rape in prison, once and for all.

No matter what crime someone has committed, rape is not part of the penalty.

JDI is based in the U.S., with offices in Los Angeles and Washington, D.C. In 2013, JDI founded JDI-South Africa (JDI-SA) as an independent organization, based in Johannesburg, to build on the work that JDI began in South Africa in 2005. JDI and JDI-SA share a core mission: to end rape and other forms of sexual abuse in prison. JDI has also conducted advocacy in Botswana, Guyana, India, Jamaica, Mexico, the Philippines, and the United Kingdom. JDI's programs are conducted primarily in English. At present, JDI has capacity to answer correspondence and provide information only in English and Spanish, apart from this summary. JDI offers referrals for rape crisis counseling, legal assistance, and other resources for victims of rape in prison solely in the U.S. and South Africa. To learn more about JDI's work, please visit www.justdetention.org.

References

ⁱ Prison systems vary widely from country to country and region to region, as do the types of facilities that are used to incarcerate people. For the purposes of this document, “prison” refers to all types of detention facilities, including adult prisons and jails, youth detention facilities, local detention facilities, and police “lock-ups.”

ⁱⁱ National Standards to Prevent, Detect, and Respond to Prison Rape, Department of Justice, May 17, 2012, available at http://www.ojp.usdoj.gov/programs/pdfs/prea_final_rule.pdf

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