

Understanding Prisoner Rights

If you or someone you love is going to prison, you may have questions about HIV/AIDS and a prisoner's rights and responsibilities while in prison.

What are rights?

Rights are interests that are recognized and protected by the law.

For example: A person has the right to be treated fairly and with humanity while in prison.

Where do rights come from?

You have *Constitutional rights* which come from the Constitution of your country.

For example:

- The right to life;
- The right to liberty;
- The right to equal protection of the law;
- The right to be free from inhuman treatment and forced labour;

Don't your rights get taken away when you go to prison?

Yes. Some of your rights are restricted when you go to prison like the right to liberty. However, this does not mean that *all* your rights are taken away. Most of your Constitutional rights are still protected.

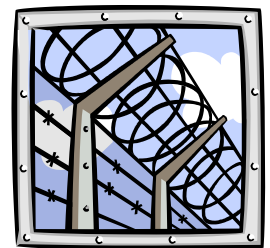


If you are a prisoner, you are also given specific rights that are found in the *Prisons Act* of your country.

For example:

Vanuatu	<i>Prisons (Administration) Act</i> [Cap 20]
Fiji	<i>Prisons Act</i> [Cap 86]
Kiribati	<i>Prisons Act</i> [Cap 76]
Samoa	<i>Prisons Act, Amendments 1971</i>
Cook Islands	<i>Prisons Act 1967</i>
Tuvalu	<i>Prisons Act</i> [Cap 72]
Solomon Islands	<i>Prisons Act</i> [Cap 111]
Tonga	<i>Prisons Act</i> [Cap 36]

So what rights does a person have as a prisoner?



Under most *Prisons Acts*, a prisoner has the right:

- To receive rations or meals;
- To receive clothing, bedding, soap and medicine;
- To exercise;
- To medical treatment;
- If a prisoner is female, to be kept separate from male prisoners;
- Not to be assaulted by prison guards unless he/she has attempted to escape, been riotous or violent, or has disobeyed an order;
- To make complaints to the Officer in Charge.

A prisoner may also have the right:

- To work reasonable hours;
- To be free from unreasonable searches at night time;
- To correspond with family and/or receive visitors; and
- To notify family members when sick.

I am HIV positive. Do I have any special rights?

You have the same rights as everyone else. However, the law requires that a prison keep medical supplies on site and this should include medication for HIV/AIDS.

The law also requires that a doctor be appointed as medical officer for the prison. It is the medical officer's job to help you stay healthy and provide medical care in the event of illness. If you are sick, the medical officer can also authorize your removal from prison to a hospital.

PRISONS SHOULD ALSO MAKE CONDOMS AVAILABLE SO THAT PRISONERS CAN PROTECT THEMSELVES AGAINST THE SPREAD OF HIV/AIDS INFECTION.

Should I tell the medical officer that I have HIV?

Some prisons may require that all prisoners take an HIV test but it should be your decision whether to tell the prison doctor that you have HIV.

You may want to tell the prison doctor that you are HIV positive since you may be more likely to get sick while in prison and will need a doctor's help to stay healthy and/or to get to a hospital if necessary.

Remember, the prison doctor has a duty to keep your medical information *confidential*.

Do prisoners have responsibilities?

Yes. Prison can be a place where HIV/AIDS transmission occurs more easily. You have a duty to protect yourself and/or others from becoming infected with the disease. This means, you should:

- Get an HIV test if you think you might be infected;
- Use a condom during sex;
- Use clean/sterilized needles only;
- If you are HIV positive and think you have put someone at risk of being infected, tell them.

You also have a duty to keep clean and healthy. This means that if you think you are getting sick, talk to your doctor!

What if my rights aren't being respected?

You can make a complaint to the Chief Officer, the Officer in Charge, a visiting judge or anyone else authorized to inspect the prison.

For more information contact:



PIAF Legal and Human Rights Task Force

P.O. Box 888, Rarotonga, Cook Islands

Ph and fax: (682) 23102

Email: lhrtf@pacificaid.org

Website: www.pacificaid.org/rights

Special thanks to:



Foreign Affairs
Canada

Affaires étrangères
Canada

-and-



University of the South Pacific, School of Law

for their support in the development of this project