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Shackling prisoners in hospital

Contravenes international law

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The shackling of women in labour in British hospitals has aroused almost universal condemnation. Last week the home secretary clarified the use of restraints on all prisoners attending hospitals. Pregnant women will no longer wear restraints within hospitals, although those considered to be high security risks will still wear them for antenatal visits and at least one of the accompanying prison staff will be a woman. But for other prisoners attending hospitals restraints will continue to be applied "unless there is a medical objection."[1]

Maternity service organisations have already condemned the home secretary's response, and have extended their objections to the shackling of all woman prisoners, arguing that the practice is illegal under national and international law. The European Convention for the Protection of Human Rights says that no one should be subjected to degrading punishment, and the United Nations standard minimum rules for the treatment of prisoners state that chains shall not be used as restraints.[2,3] Although shackling may seem more abhorrent in women than it does in men, in both sexes it is an abuse of human rights. Prison welfare groups have evidence of prisoners who have refused to go to funerals, child care hearings, and visits to elderly relatives because they are humiliated by being forced to wear restraints. Not all European countries chain their prisoners. In the Netherlands, chains are never used and only prisoners who have been assessed as being exceptionally dangerous are handcuffed.

Until April 1995 restraints were not usually used on women prisoners in Britain, according to the Howard League for human reform of the penal system although they were more routine for men. The policy changed after six male prisoners escaped from the special security unit at Whitemoor prison and a subsequent report criticised the level of supervision.[4] In the security hype that followed a blanket policy was extended to all prisoners in secure institutions.

An amendment to the security manual issued to prisons by the Home Office states that "a closeting chain should always be used for women under escort from secure prisons." In case prison governors feel that this policy is excessive they are reminded that "the rate of escapes by female prisoners is proportionately much higher at present than that of male prisoners." Since 1990 a total of 70 women have escaped from escort—20 of them from hospitals.[5] About half of all women in prison are mothers and most "escapes" involve women going home at times of family crises. In 1993, out of about 3000 women sentenced to prison in Britain, only 250 (8%) had committed crimes of violence.[6] Out of about 53 000 men sentenced to prison in 1993, about 6500 (12%) had committed violent crimes. A policy to restrain all prisoners when outside their secure institutions is not supported by the risks.

The blanket policy was never discussed with the hospitals that served the prisons. Faced with patients in chains, doctors and other hospital staff may feel unclear about their responsibilities. Although the prison security manual has always given doctors the right to request the removal of restraints "at the point when treatment begins," medical staff do not always know this. Some doctors have been told by prison staff that if restraints are removed it will be the doctor's responsibility if the patients escape or harm anyone. Although never legally tested, this seems highly unlikely. It is up to the prison service to maintain security and up to doctors to provide decent and humane health care. Even so, doctors may not always feel that they can make a stand.

But they should do so. Arguments about the adverse medical consequences of shackling (for example, that it will damage bonding between mother and child) are largely irrelevant. Doctors can object to seeing patients in shackles on the grounds that it is a degrading experience for both parties. Guidance on good practice from Britain's General Medical Council says that doctors must respect patients' privacy and dignity. It is not dignified for a patient to be shackled to a bed, or to be chained to a prison officer during a physical examination or treatment. Such physical restraints also ruin the trust and confidentiality between doctor and patient.

The BMA is working on guidelines for doctors on these issues. Bearing in mind that a small proportion of prisoners (men more than women) will be potentially dangerous or likely to escape, the problem of delivering health care while protecting health workers and the public cannot be totally disregarded. The level of restraint, if any, should be decided on assessment of an individual's risk and should be agreed by the prison governor and either the hospital management or a clinician who already knows the patient. Chains, because they are illegal under international law, should never be acceptable forms of restraint. Usually security can be provided by a warder of the same sex outside the consulting or treatment room with another in the grounds immediately outside. Rarely a warder may be needed for the safety of health staff behind a screen within the treatment room. It would be naive to argue that a prisoner should never be examined while wearing a restraint, but the occasions when this is necessary are exceptional. But most patients from prisons present no threat and should be treated accordingly.

LUISA DILLNER
Assistant editor

BMJ,
London WC1H 9JR

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