

End-of-Life in Prison: Talking Across Disciplines and Across Countries

International Workshop

Fribourg (CH) 5th/6th December 2014

What a good end-of-life (EOL) means, is a particularly relevant question in the context of confinement and prison. Most of the questions and issues raised by EOL for those living in liberty also apply to the correctional setting. However, the institutional particularities and logics of the prison create unique barriers and make it difficult in practice to reconcile concerns in regard to EOL – like care and comfort – with the mandate of corrections – confinement and punishment. At present the literature on EOL in prison is rather scarce. Researchers from various disciplines in various countries are analyzing the topic from their disciplinary perspective and within the respective institutional frame of their national context. The workshop therefore aims to bring together scholars and discuss EOL in prison across disciplines and across national contexts. We are interested in theoretical contributions, empirical approaches as well as practical research that is policy oriented. The papers should focus on one or a combination of the following questions:

- What are institutional practices in dealing with EOL in prison and how are they fitted in the institutional logic of the prison?
- How are the various actors involved and affected by processes of EOL in prison?
- What specific legislations or less formal rules exist concerning EOL in prison?

Convenors:

Ueli Hostettler, Marina Richter, Irene Marti | Sociology, Social Policies and Social Work, University of Fribourg, Switzerland

Nicolas Queloz, Stefan Bérard | Criminal Law and Criminology, University of Fribourg, Switzerland

Programme

Friday 5th December 2014

08:45 **Ueli Hostettler, Nicolas Queloz, Marina Richter** (University of Fribourg): Introduction

09:00 **Alison Liebling** (University of Cambridge): The meaning of ending life in prison

There are many ways that life can end in prison. This paper takes suicides in prison, the natural life sentence (55 prisoners are serving this sentence in England and Wales) and murder as three forms of unnatural death that indicate important features of the prison experience, and which take on a special meaning in the prison environment. A case study in each category will be described and analysed, with the question of whether these forms of death in custody challenge the 'legitimate penological purposes of imprisonment' in mind. Reflections at the end on the ethics of euthanasia in prison will be informed by this account.

Chair: Marina Richter

Discussant: Ueli Hostettler

10:30 *Coffee break*

11:00 **Caroline Devynck, Sonja Snacken, Wim Distelmans** (Vrije Universiteit Brussels): End-of-life and mental suffering in prison

Since the Act of 28 May 2002, Belgium is one of only three countries in the world (with the Netherlands and Luxemburg) where euthanasia or end-of-life on request can legally be performed by medical doctors under certain circumstances, including a voluntary, repeated and lasting request, from a competent (adult) patient, who suffers unbearably, physically or mentally, as the result of an incurable affection caused by illness or accident. Recently euthanasia requests by prisoners (including mentally ill offenders) have been received by ULteam, a specialized consultation team for end-of-life questions. Each of these requests is based on continuous and unbearable mental suffering. The Belgian Prison Act (2005) and European human rights standards grant prisoners and mentally ill offenders the right to equivalence of medical care. However, the prison context is also known to lead to mental suffering: cf. higher suicide rates, the pains of imprisonment, the lack of adequate medical and therapeutic care. Within the PhD study by C. Devynck (supervisors: S. Snacken & W. Distelmans), a qualitative study of the underlying motives of the euthanasia requests by the prisoners is currently performed. It appears that all requests are formulated by prisoners facing very long or indeterminate prison terms. The study also raises questions concerning the interaction between euthanasia requests and suicide risk, as some of the prisoners and mentally ill offenders have a history of suicidal behaviour, while for others the threat of suicide or euthanasia may be an ultimate call for improving their hopeless situation.

Chair: Nicolas Queloz

Discussant: Stefan Bérard

12.30 *Lunch break*

14:00 **Irene Marti (University of Fribourg): End-of-life in closed prisons in Switzerland: institutional logic between “care” and “custody”**

Swiss prisons house a steadily growing number of older persons. Also, there is a clear trend in this country over the past decades toward more security and control and even towards zero tolerance for criminals. As a consequence, there are now more people serving longer sentences or sentenced to “indefinite incarceration” (Art. 64 SPC) or “in-patient therapeutic measures” (Art. 59 SPC) for an undetermined duration or even for the rest of their lives. The former is also known as post-sentence preventive detention for prisoners who are labelled as “dangerous” and categorized as posing an “undue risk” to society. This increases the number of persons who will spend the end-of-life (EOL) in prison and eventually die within the prison. Under the law, persons in prison are supposed to have the same access to medical care as the rest of the population. However, the highly restrictive environment of incarceration and punishment makes meeting the demands of care and pain relief difficult.

In the context of an on-going research project on end-of-life in Swiss prisons financed by the Swiss National Science Foundation, this paper will present first findings. These include insights regarding institutional norms and practices related to end-of-life care in Swiss high-security prisons. Following Thornton and Ocasio, we argue that individual and organisational practices, interests, identities and values are embedded within prevalent institutional logics. The institutional logic of the prison is characterised by a twofold and contradictory logic: of security/punishment on the one side and normalization/resocialization on the other side. EOL in prison adds another contradictory institutional logic: care and confinement seem like an oxymoron. Based on data gathered through participant observation, document analysis, informal discussions and semi-structured interviews, this paper will explore i) how the different logics inscribed in the prison overlap in everyday practices, ii) what kind of contradictions and ambivalences thereby emerge, and iii) how they affect and challenge EOL processes on various levels. By highlighting the inter- and intra-institutional dimension of the overlapping of institutional logics and by pointing to the agency of the involved actors, this paper will contribute to the current debate on possible solutions regarding EOL care in prison.

Chair: Ueli Hostettler

Discussant: Alison Liebling

15:30 *Coffee Break*

16:00 **Aline Chassagne, Aurelie Godard (CHRU Besançon): PARME study: Palliative care in prison. The intersection of inmates and patients**

Every year in France three hundred prisoners die in jail, half from suicide, half from illness (OPALE, P.Tournier). Prior to this study, few studies existed into the specific conditions under which the prisoners succumbed to death. Obviously, there were numerous studies about suicide, but one about the type of pathology inmates had died from (Kensley, 1997). Similarly, the number of people who were at the end of their life in prison in France was unknown. Neither the ministry of health nor the ministry of justice maintained these statistics.

Exploring the theme of the end of life in prison, the research group conducting the PARME study poses both medical and ethical questions. Researchers examine the quality of care provided to inmates in detention at the end of life, as well as their ability obtain release in

order to access to care outside the prison, pursuant to the Law of 4 March 2002 which allows a compassionate release for ill inmates.

Chair: Marina Richter

Discussant: Mary Turner

17:30 *End of the programme (Friday)*

Saturday 6th December 2014

09:00 **Stefan Bérard, Nicolas Queloz (University of Fribourg): End-of-life in Swiss prisons: legal and criminological aspects**

As in other countries, we can clearly observe in Switzerland these significant trends in criminal policy: ageing of prison populations; harsher security decisions of the criminal justice; lengthening of deprivation of liberty; and morbidity impact of detention and “prisonisation”.

In the frame of the specific National Research Programme “*End of life*” (NRP 67, financed by the Swiss National Science Foundation), we are carrying out at the University of Fribourg a 3 years research project on the issue “*End of life in Swiss prisons*”.

There is currently neither specific legislation nor practical guidelines concerning end of life in prison in Switzerland. In fact, the prison system and managers (in particular the cantonal agencies which have to assure the enforcement of criminal sentences) must rely on various legal rules from international, national and regional (inter-cantonal) sources. Then, it is the task of the courts (jurisprudence) to clarify the interpretation of these rules and their scope.

After a brief presentation of Swiss legal topical tools, we will examine the influence of the decisions of the European Court of Human Rights and of the Swiss Federal High Court. And we will show how much the implementation of the only article of the Swiss Criminal Code (Art. 92) – which allows “*for a serious reason*” the interruption of a sanction of deprivation of liberty – is influenced by the actual security turn.

Chair: Ueli Hostettler

Discussant: Aline Chassagne

10:30 *Coffee break*

11:00 **Mary Turner (University of Lancaster): Palliative care in prison: practical and emotional challenges for custodial staff, healthcare professionals and fellow prisoners**

Despite falling crime rates in England and Wales over the past 20 years, tougher sentencing and more stringent licensing conditions have led to a doubling in the number of prisoners to more than 86,000; at 153 per 100,000 this is the highest prison population rate in Western Europe. Older people constitute the fastest growing age group within the prison estate; there are now more than 10,000 prisoners over the age of 50, which reflects an increasing willingness of the courts to imprison older people, in part because of sentencing for historic sexual offences.

Older prisoners typically have complex health and social care needs, multiple morbidities and disabilities; there is therefore an increasing need for palliative care for this group of prisoners. A recent report by the Parliamentary Justice Committee recommends increasing the capacity of prisons to provide palliative care, in order to maintain dying prisoners within the prison environment, rather than transfer them to other care settings or grant compassionate release. Initiatives such as specially adapted palliative care cells and the use of end of life care tools are underway in a number of prisons.

This paper will explore some of the complexities inherent in providing palliative and end of life care in prisons in England and Wales. It will draw on preliminary findings from the 'Both sides of the fence' study, an action research project which is currently underway in North West England, as well as on earlier work undertaken by the research team. Of particular interest is the emotional impact on prison officers, healthcare staff and fellow prisoners who are involved in caring for dying prisoners in a custodial environment. The paper will explore the practical and emotional challenges and suggest ways in which those undertaking this difficult work might be better supported.

Chair: Nicolas Queloz

Discussant: Irene Marti

12:30 *Final discussion*

Chairs: Ueli Hostettler and Marina Richter

13:30 *Lunch and conversations*

Lunch is provided for all participants: opportunity for informal conversations.

14:30 *End of the workshop*

Practical information

Workshop venue

University of Fribourg - Pérolles II campus

Building 21

90, Boulevard de Pérolles

CH-1700 Fribourg

Room B 130 (first floor)

(see map below indicating route of access from the train station)

Fribourg is easily accessible by train from Switzerland's international airports and/or main train stations in Zurich, Geneva, Basel or Bern. For detailed train schedule see www.sbb.ch. The workshop's venue is a fifteen minute walk away from Fribourg's train station. Just follow Boulevard de Pérolles from the train station to the roundabout in the "Pérolles" area where building 21 is located. It can also be reached by buses 1 or 7 to "Charmettes". Lunch breaks will take place in building 20.

The workshop is open to the public. Participation is free of charge. For a registration please send an e-mail until 25th of November to irene.marti@unifr.ch. Space is limited and an early registration is recommended.



