

Working Group on Arbitrary Detention
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Dear Sir/Madam

Medical Justice welcomes the Working Group on Arbitrary Detention's first draft of its "basic principles and guidelines on remedies and procedures on the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before court, in order that the court may decide without delay on the lawfulness of his or her detention".

We would welcome the addition of a paragraph setting out the importance of ensuring access to appropriate medical treatment throughout any period of detention as this may profoundly impact a detainee's health and wellbeing as well as their ability to engage with legal proceedings. This could be incorporated into principle 20, para 60, but would need to go beyond detainees with disabilities.

Some specific suggestions:

Principle 20: Those who lack capacity to make decision relating to challenging their detention are particularly vulnerable and require additional support. One issue is often identification, without which there will be no additional support. Would it be possible to add something on the importance of robust systems to identify those who are particularly vulnerable because of a disability and the importance of access to independent advocates for those who lack capacity?

Principle 21, paragraph 65: we recommend the addition of a stipulation that regular reviews should be done by an independent body and should be automatic.

Guidance 21 (e): we recommend that deals with contact and access should include access for independent bodies/individuals to all detention settings including independent medical practitioners. E.g. the Un Special Rapporteur was unacceptably blocked from accessing an immigration detention centre in the UK

Guideline 21, para 116(l): we recommend the addition of a stipulation that regular reviews should be done by an independent body and should be automatic.

Guideline 21, para 116(j) specifies that 'the scope of the judicial review cannot be confined to a formal assessment of whether the migrant concerned entered the State without a valid entry permit' – We feel that this wording is too narrow and could be beneficially updated to something like 'cannot be confined to an assessment of the migrant's current immigration status' to avoid the implication that detention has to be justified beyond the facts of the immigration case if the person entered without a valid permit, but not if their situation has changed whilst in the UK e.g. deportation order etc.

Yours sincerely,



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