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Do condoms cause rape and mayhem? The long-term effects of condoms in New South Wales' prisons

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Abstract

Objective: Concerns raised by opponents to condom provision in prisons have not been objectively examined and the issue continues to be debated. We examined the long-term effects of the introduction of condoms and dental dams into New South Wales (NSW) prisons in 1996, focusing on particular concerns raised by politicians, prison officers, prison nurses, and prisoners. These groups were worried that: (a) condoms would encourage prisoners to have sex, (b) condoms would lead to an increase in sexual assaults in prisons, (c) prisoners would use condoms to hide and store drugs and other contraband, and (d) prisoners would use condoms as weapons.

Method: Data sources included the NSW Inmate Health Surveys in 1996 and 2001 and official reports from the NSW Department of Corrective Services. The 1996 IHS involved 657 men and 132 women randomly selected from all prisons with a 90% response rate. The 2001 survey involved 747 men and 167 women inmates with an 85% response rate.

Results: There was a decrease in reports of both consensual male-to-male sex and male sexual assaults five years after the introduction of condoms into prisons in 1996. The contents of condom kits were often used for concealing contraband items and other purposes but this was not associated with an increase in drug injecting in prison. Only three incidents of a condom being used in assaults on prison officers were recorded between 1996 and 2005; none were serious.

Conclusions: We found no evidence of serious adverse consequences of distributing condoms and dental dams to prisoners in NSW. Condoms are an important public health measure in the fight against HIV and sexually transmitted diseases; they should be made freely available to prisoners as they are to other high-risk groups in the community.

Key messages

- Distributing condoms in prisons remains a controversial and emotive issue.
- Contrary to the expectations of prison officers and prisoners, the introduction of condoms into New South Wales prisons in 1996 did not result in an increase in consensual male-to-male sex or in male sexual assaults.
- The contents of condom kits were used by prisoners for non-sexual purposes such as concealing contraband items, but this was not associated with an increase in drug injecting in prison.
- Only three incidents of condoms being used against prison officers were recorded between 1996 and 2005, mostly of a mischievous nature.

'I didn't like that when they started talking about the condoms in prison because I thought that most people would be using them for rape that wouldn't leave any forensic evidence ... You get raped and someone is wearing a frenchie.' (Australian prisoner before condoms were introduced)

Introduction

In 1991, the World Health Organization reported that 23 of 52 prison systems surveyed allowed condoms in correctional facilities.¹ In 2006, prison jurisdictions in many countries, including most Australian states, still do not allow prison inmates access to condoms despite evidence that HIV prevalence and transmission risks are higher within prisoner populations than the general community.² Condoms, if used correctly and consistently, can prevent HIV and other sexually transmitted infections.³⁻⁴

Despite Australia's success in containing the HIV epidemic in the general population and within specific high risk groups,⁵ it took the better part of a decade, between 1987 and 1996, of political and legal controversy before condoms were allowed into New South Wales (NSW) prisons. Opponents argued that: (1) condoms would encourage prisoners to have sex; (2) condoms would lead to an increase in sexual assaults among prisoners; (3) prisoners would use condoms to hide and store drugs and other contraband; (4) prisoners would use condoms as weapons against nurses, prison officers, and fellow inmates; and (5) prisons would be perceived as 'homo' gaols (as stated by Mr Armstrong, then president of the Prison Officers' Association, in the *Sydney Morning Herald*, 3 February 1988).⁶⁻¹¹

These arguments have rarely been examined using objective evidence. We examine whether the concerns raised by opponents to condoms in NSW prisons were realised after their introduction in 1996.

In 1993, 52 prisoners instituted legal action in the NSW Supreme Court, *Prisoners A–XX Inclusive v. State of NSW*, against the State government's policy of denying access to condoms in prisons.^{12–13} Following legal advice on the likely adverse outcome of the case, the NSW Department of Corrective Services implemented a pilot condom distribution program in three men's prisons.

The six-month condom pilot was conducted between March and August 1996 using condom vending machines that dispensed a small cardboard box containing one condom, a sachet of lubricant, information on the correct use of condoms and a plastic zip-lock disposal bag. Beginning in September 1996, the condom program was expanded across NSW and included dental dams in women's prisons. By 2005, the condom program was distributing approximately 30,000 condoms and dental dams per month to prisoners in NSW. Condoms are freely available from both dispensing machines and the prison clinics.

Methods

We examine various sources of data, including the NSW Inmate Health Surveys (IHS) in 1996 and 2001 and official reports from the NSW Department of Corrective Services.

The methodology for the 1996 and 2001 Inmate Health Surveys has been described elsewhere.¹⁴⁻¹⁹ It involved 657 men and 132 women randomly selected from all prisons with a 90% response rate in 1996. The 2001 survey involved 747 men and 167 women inmates with an 85% response rate.

Several days prior to the survey, the NSW Department of Corrective Services provided a list of all detainees in the state's 29 correctional centres. Inmates were selected randomly from this list with stratification for age and Indigenous status. The sample size was selected to enable a range of physical health, mental health, and risk behaviours to be described for men and women and for Aboriginal and non-Aboriginal prisoners. Potential participants received verbal and written information about the study; those agreeing to participate were required to provide written consent. Respondents in the 1996 and 2001 surveys were paid A\$10 each. Nurse interviewers collected the health information using a face-to-face interview. The screening instrument covered a broad range of physical health and mental health issues and risk behaviours. Blood and urine specimens were collected to screen for a range of infectious diseases and sexually transmitted infections.

Questions were also included on attitudes to the provision of condoms or dental dams in prison (1996), experiences of consensual and non-consensual sex in prison, drug injecting in prisons, awareness of sexual assaults by others (1996 and 2001), and personal use of condoms or dental dams for purposes other than sex (2001).

Indirect questioning about awareness of sexual assaults was judged to be less personally threatening for the prisoners to answer. Respondents were also asked to list up to three ways in which they were aware of condoms or dental dams being used in prison. Neither the 1996 nor the 2001 IHS survey enquired about prisoners' own use of condoms or dental dams for sexual purposes.

Sexual behavioural data were excluded from the three (of 29) prisons in 1996 that were involved in the condom pilot study, so as to prevent possible contamination of the results by those exposed to condoms at the pilot sites. Open responses were categorised and coded for tabulation and chi-square tests were used to test for differences across surveys.

Reports on sexual assaults among inmates and misdemeanours related to the unauthorised possession or misuse of condoms between 1996 and 2005 were obtained from the NSW Department of Corrective Services.¹⁹ Under the 1996 prison policy, condoms and dental dams were not to be used for any purpose other than sexual activity with another consenting prisoner within a prison cell. Penalties apply for the unauthorised possession, use and disposal of condoms. The punishment provisions were regulated in the *Crimes (Administration of Sentences) Regulation 2001 (NSW)*.

Results

Prisoner attitudes to condoms and dental dams in prison (1996)

According to the 1996 IHS, 32% of men opposed condoms and 5% of women opposed dental dams in prison. Around 10% of men feared that condoms and 1% of women

believed that dental dams would lead to an increase in sexual assaults in prison, while 4% of men believed that condom provision was unacceptable on the grounds it would lead to an increase in sexual activity among prisoners. Six per cent of men believed that homosexual activity in prisons was unacceptable and 1% were concerned that condoms would give people the impression that prisoners were homosexuals. Nevertheless, 27% of men approved of condoms and 54% of women favoured dental dams in prison.¹⁷

Prison sex (1996 and 2001)

In 1996, most male prisoners reported that, in their lifetime, they had never had a male sexual partner (94.5% female partners only, 0.7% male only, 4.8% both; $n = 603$).

Female inmates were more likely to report same-sex partners (68.1% male partners only, 12.9% female only, 19.0% both; $n = 116$).¹⁷

Few inmates reported having sex in prison (Table 1). Between the 1996 IHS (excluding the three pilot sites) and the 2001 IHS, there was a reported decrease in the proportions engaging in either consensual ($p < 0.001$) or non-consensual ($p < 0.001$) sex between men. There was no significant change for women.

Table 1. Self-reports of sex in prison and awareness of sexual assault, NSW Inmate Health Surveys 1996¹⁷ and 2001¹⁸

	Men		<i>p</i> value	Women		<i>p</i> value
	1996 (<i>N</i> =538)* <i>n</i> (%)	2001 (<i>N</i> =747) <i>n</i> (%)		1996 (<i>N</i> =132) <i>n</i> (%)	2001 (<i>N</i> =167) <i>n</i> (%)	
Respondents' sexual activity in prison						
Consensual sex	34 (6.3)	18 (2.4)	<0.001	20 (15.2)	34 (20.4)	0.31
Non-consensual sex	14 (2.6)	2 (0.3)	<0.001	2 (1.5)	0 (0)	0.38
Awareness of sexual assault by others in prison						
Less than 6 months ago	90 (16.8)	48 (6.4)	<0.001	13 (9.8)	23 (13.8)	0.38
>6–12 months ago	74 (13.5)	51 (6.8)	<0.001	9 (6.8)	11 (6.6)	0.86

* Excludes 119 inmates at the 3 condom pilot sites.

In 1996, 30% of men and 17% of women reported being aware of a sexual assault taking place in their prison in the past 12 months or since they came into prison within the last year (Table 1). Fewer male inmates reported awareness of sexual assaults in 2001 (13%) than in 1996 ($p<0.001$), but there was no significant change among female inmates. About half the respondents said the most recent assault that they were aware of had occurred within the last six months.

Official records of sexual assaults in NSW prisons revealed that the incidence of notifications did not change significantly between 1996 (0.3/100 inmates) and 2001 (0.2/100 inmates).¹⁹

Condoms and dams used for purposes other than sex (2001)

The 2001 IHS asked prisoners whether they were aware of the use of condoms or dental dam kits for purposes other than sex. The prisoners (38% of the men and 46% of the women) offered at least one purpose (Table 2). The most common use of condoms and the condom disposal bags was for the storage of contraband items and tobacco (prisoners generally smoked 'roll-your-owns' rather than manufactured cigarettes). Lubricant was used as hair gel. Flavoured lubricant enjoyed a brief fashion as flavouring (banana and strawberry) for milk prior to being withdrawn. Condoms were also used as water bombs for throwing. The main non-sexual use of dental dams by women prisons was for hair ties and sometimes as placemats or doilies.

While the contents of condom kits were used to store drugs, there was no difference in the proportion of prisoners that reported injecting drugs while in prison in 1996 and 2001 (21.5% versus 24.2% in men, 31.8% versus 33.5% in women).¹⁷⁻¹⁸

Table 2: Reports of awareness of other prisoners' use of safe sex kits for purposes other than sex, NSW Inmate Health Survey 2001^{18*}

Reported use	Condom kits		Dental dam kits	
	Men (N=280)		Women (N=76)	
	No.	%	No.	%
Storage				
Contraband, including drugs	80	28.6	2	2.6
Tobacco	78	27.9	13	17.1
Urine for testing	1	0.4	0	0.0
Other use of plastic bags	13	4.6	2	2.6
Personal grooming				
Hair gel	48	17.1	0	0.0
Hair bands	3	1.1	54	71.1
Shaving gel	1	0.4	0	0.0
Household				
Tying items	7	2.5	2	2.6
Placemats or doilies	0	0.0	10	13.2
Quilts	0	0.0	1	1.3
Decorations	0	0.0	1	1.3
Lubricant (non-sexual use)	3	1.1	0	0.0
'Water bombs'	79	28.2	5	6.6
Masturbatory aid	7	2.5	0	0.0
Shoelaces	0	0.0	3	3.9
Flavouring for milk	2	0.7	0	0.0
Other	2	0.7	0	0.0

* Percentages add up to more than 100% because respondents could nominate up to three uses for safe sex kits.

Statistical data from the NSW Department of Corrective Services showed that condom misdemeanours were rare and that incidents involving the unauthorised possession or misuse of condoms in 1996 and 2001 amounted to 0.0/100 inmates and 0.1/100 inmates respectively.¹⁹ These incidents may have included three reports of condoms being used as weapons against prison officers recorded on prison charges sheets between 1996 and 2005. One incident involved a prisoner throwing a condom filled with shampoo at a prison officer and the other two incidents were similar, using liquids resembling ejaculate (Ropp FA and Vumbaca GA; personal communication, June 2006).

Discussion

Condoms are a simple but effective means of preventing the spread of HIV and other STIs in the community, and the prison setting should be no exception to this. Despite their widespread acceptance in the community, their introduction in NSW prisons was controversial. Interestingly, the sentiments expressed by opponents to condoms in prisons including government ministers, prison officers and their unions, and prison nurses, were also echoed by the prisoners. Most of these concerns were not realised. In fact, we found evidence of a decrease in both male-to-male consensual sex and sexual assaults between 1996 and 2001.

The decline in both consensual and non-consensual sex among men may be due to other factors. From 1996, the NSW Department of Corrective Services and Justice Health introduced health education programs focusing on inmate education about HIV/AIDS and hepatitis, and established HIV/AIDS committees that included inmates.²⁰ However, the presence of condoms and dispensing machines in NSW prisons may have also raised awareness and continued to reinforce HIV/AIDS prevention messages for prisoners.

Prison officers' concerns that condoms would be used for concealing contraband were justified. However, this did not appear to have led to an increase in the use of drugs in prison. Prisoners would undoubtedly find any means of storing contraband even if condoms were unavailable. In a controlled and resource-poor setting, inmates display great inventiveness in employing any new resources for a variety of purposes, and safe sex kits are no exception. A limitation of our study design is that we were unable to

determine the proportions of the 30,000 condoms and dental dams issued per month that are used for various purposes.

There were three reports of minor incidents of condoms being used against prison officers. Such incidents were rare compared with the number of more serious assault charges recorded against prisoners each year, and mainly of a mischievous nature.

Although the condom program included the provision of dental dams for women's prisons, this was presumably for political reasons rather than genuine concern about the spread of sexually transmissible infections that might be prevented by use of dental dams.²¹ There was little controversy about dental dams before their introduction.

While these data are based on self-report and subject to the insensitivity of official reporting, they highlight the benefit to correctional services of undertaking periodic surveys of prisoners' health and behaviour to assess the outcomes of policy initiatives.

Although there was initially strong opposition to condoms in prison, this soon dissipated as most of the anticipated adverse consequences did not eventuate. At least in NSW, condoms did not cause rape and mayhem.

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Contributions by authors

The contributions of each author to the project and the manuscript are defined as:

Dr Lorraine Yap

Qualitative researcher for the Sexual Health and Attitudes of Australian Prisoners project (SHAAP). Contributed to the direction, concepts, outline, writing, review, editing, research, rationale and literature review in the paper.

Associate Professor Tony Butler

Chief investigator for the SHAAP project. Permitted other authors in this paper to use the Inmate Health Survey data and contributed to the direction, concepts, outline, writing, review, editing, data analysis and methodology in the paper.

Dr Juliet Richters

Chief investigator for the SHAAP project. Contributed to the direction, concepts, writing, review, editing and data analysis in the paper.

Kristie Kirkwood

Project officer for the SHAAP project. Contributed to the writing and review of the paper.

Luke Grant

Chief investigator for the SHAAP Project. Contributed to the direction, review and concepts in the paper from the perspective of NSW Department of Corrective Services.

Max Saxby

Executive officer to Luke Grant. Contributed NSW Department of Corrective Services reports and research for the paper.

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