

Penal Reform International

Training Resource: Protecting the rights
of those facing the death penalty and
life and long-term imprisonment

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Acronyms used

ACHPR	African Commission on Human and Peoples' Rights
Bangkok Rules	UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders
CAT	Convention Against Torture
CRC	Convention on the Rights of the Child
ECOSOC	United Nations Economic and Social Council
EU	European Union
GA	General Assembly
HRC	UN Human Rights Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
LWOP	Life without the possibility of parole
NGO	Non-governmental organisation
PRI	Penal Reform International
Safeguard	Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty
SMR	Standard Minimum Rules for the Treatment of Prisoners
UDHR	Universal Declaration on Human Rights
UN	United Nations

Introduction

About Penal Reform International

Penal Reform International (PRI) is an international, non-governmental organisation (NGO) with Consultative Status at the United Nations Economic and Social Council (ECOSOC) and Council of Europe, and Observer Status with the African Commission on Human and People's Rights (ACHPR). It aims to develop and promote international standards for the administration of justice, reduce the unnecessary use of imprisonment and promote the use of alternative sanctions which encourage reintegration while taking into account the interests of victims.

About this resource

This resource is part of a series of three training resources produced as part of PRI's programme of work which seeks to achieve the progressive abolition of the death penalty and implement alternative sanctions that respect international human rights. The innovative two-year programme, undertakes as one of its tasks to build the capacity of key stakeholders, decision-makers and local civil society organisations working on the death penalty and alternative sanctions such as life and long-term imprisonment.

PRI's programme of work will be implemented in nineteen countries across PRI's five regions worldwide¹.

This resource targets key stakeholders in the criminal justice and penal systems, including *inter alia* judges, prosecutors, defence lawyers, prison officials and probation staff. The aim of this resource is to build and strengthen the knowledge and awareness of the international human rights safeguards of individuals facing a death penalty or long and life term sentences, including international standards on the treatment of prisoners and fair trial standards.

PRI has also prepared support and reference material in the form of information packs, one on the death penalty and another on alternative sanctions. These information packs address the key issues and arguments fundamental to abolition of the death penalty and alternative sanctions. The information packs have been produced in Arabic, English, French and Russian.

This training resource has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of Penal Reform International and can in no circumstances be regarded as reflecting the position of the European Union.

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¹ Central Asia, East Africa, Eastern Europe, Middle East and North Africa and South Caucasus.

How to use this resource and guidance on training techniques

NOTE: You may have received this training resource as part of your participation in a PRI training session. The substance of this section on training techniques will not form part of your training. This section is designed to be used specifically for the trainers and for the training of trainers.

How to use this resource

This resource is designed to represent the basic knowledge and information needed to conduct a training workshop on a given topic in an easily accessible format. Each section includes “essential principles” that relate either to the body of international and/or regional law on the topic, or to selected best practices where they are available to demonstrate implementation. Each section will include a series of discussion questions and case studies that can be adapted for use in training activities.

This resource is intended to be adapted and modified based on thorough data-gathering and preparation that precedes every training workshop.

Training courses must be designed in such a way as to facilitate their flexible use, without imposing a single rigid focus or approach. Courses must be adaptable to the particular culture, educational, regional and experiential needs and realities of a diverse range of potential audiences within the target group.

Trainings should be constructed in self-contained modules, allowing appropriate selection and tailoring according to particular needs and objectives.

Guidance on training techniques

Human rights training should be based on clearly articulated objectives. The objectives of the trainer should facilitate satisfaction of the needs of the trainee.

Three basic learning objectives should form the foundation of such programmes and mirror the following needs of the trainees:

1. **To receive information and knowledge** on what human rights standards are and what they mean for the work of the trainees in their professions.
2. **To acquire or reinforce skills**, so that the functions and duties of the professional group can be fulfilled effectively with due respect for human rights. Simple knowledge of standards is not enough to enable trainees to transfer these rules into appropriate professional behaviour. The acquisition of skills should be viewed as a process whereby skills are fine-tuned through practice and application. This process may need to be continued, in the light of training needs identified in specific areas of the trainees’ work, including through appropriately tailored follow-up programmes.
3. **To become sensitised, i.e. to change negative attitudes or reinforce positive attitudes and behaviour**, so that the trainees accept, or continue to accept, the need to promote and protect human rights through their work, and actually do so in the course of their duties. The question at issue is the **values** of the trainee. This, too, is a long-term process, to be reinforced by further, more technical, training.

Thus, to be effective, training should be aimed at improving knowledge, skills and attitudes in order to contribute to appropriate professional behaviour.

For maximum effect, a few basic principles should be kept in mind:

Interaction: This programme implies the use of a participatory, interactive training methodology. For effective training, participants should be fully involved in the process. As practitioners, the trainees will bring to the course a rich pool of experience, which must be actively drawn on to make an interesting and effective course.

Flexibility: It is not advisable to adopt a “military” approach in an attempt to force trainees to participate. The result of such techniques is, more often than not, resentment among trainees and, consequently, the closing of effective avenues of communication between trainer and trainees. While a certain level of control must be maintained by the trainer, the first rule should be flexibility. Questions – even challenges – from the audience should be welcomed, and should be addressed by trainers in a positive and forthright manner. Similarly, excessively rigid timekeeping can leave participants feeling frustrated and resentful and should be avoided.

Relevance: The unspoken question of the trainee throughout the course will be: “What does this have to do with my daily work?” The extent to which the trainer continuously answers this question will be an important measure of his or her success. Every effort must therefore be made to ensure that all material presented is relevant to the work of the audience, and that such relevance is made clear where it is not self-evident. This task may be easier when operational themes are being addressed. It may require more careful preparation, however, with respect to more topical themes, such as the protection of especially vulnerable groups.

Variety: To secure and retain the active commitment of participants, it is best to vary the teaching techniques used throughout the course. Most adults are not accustomed to long classroom sessions, and a tedious and monotonous routine will leave them more conscious of the classroom than of the subject matter. A varied selection of techniques should be used, alternating discussion with role-playing and case studies with brainstorming, as appropriate to the subject matter.

The following methods and approaches can be adopted:

Presentation of standards: A short presentation on the human rights standards relevant to a given aspect of the work of the profession, and on how such standards can be effectively applied by the audience.

Application of participatory techniques: Enables participants to use their knowledge and experience to translate into practice the ideas and concepts referred to in the presentation; and also enables them to consider the practical implications of human rights standards for their day-to-day work.

Focus and flexibility: Enables participants to focus on matters of real and current concern; and enables educators and trainers to adapt to participants’ needs as the course progresses.

Participatory techniques include:

Presentation and discussion: Following a presentation, an informal discussion is useful to clarify points and facilitate the process of translating ideas into practice. Such discussions are conducted by the presenter, who should try to involve all participants. It is useful for presenters to have a prepared series of questions available to initiate the discussion. At the conclusion of the presentation and discussion, the presenter should provide an overview or summary. Presentations should be supplemented with pre-prepared visual aids or study materials distributed in advance to all participants.

Working groups: These are created by dividing a course into a number of small groups of a maximum of five or six participants. Each group is given a topic to discuss, a problem to solve or something concrete to produce, within a short time period. The course is then reconvened and the results of the deliberations of each group are presented to the full class by a spokesperson for the group. Participants can then discuss the topics and the response of each group.

Case studies: In addition to dealing with discussion topics, working groups can consider case studies. These should be based on credible and realistic scenarios which are not too complex and which focus on two or three main issues. Case studies should require participants to exercise their professional skills when responding to them and to apply human rights standards.

Problem-solving / brainstorming: These sessions can be conducted as intensive exercises to seek solutions to both theoretical and practical problems. They require a problem to be analysed and then solutions to be developed. Brainstorming encourages and requires a high degree of participation and stimulates those involved to maximum creativity. The group should make recommendations and takes decisions on the problem. The learning or sensitisation process occurs as a result of the group discussion around each suggestion.

Simulation / role-playing: Simulation or role-playing exercises may be used to practise a skill or to enable participants to experience hitherto unfamiliar situations. This technique is particularly valuable for sensitising participants to the feelings and perspectives of other groups and to the importance of certain issues.

Visual aids: Adult learning can be enhanced by the use of blackboards, overhead transparencies, posters, displayed objects, flip charts, photographs, slides and videos / films.

What is expected of a trainer?

Trainers should create their own targeted presentation notes and materials, based on the content of these prepared training resources and information packs and the particular realities on the ground. A few basic pointers should be kept in mind:

- Make eye contact with participants.
- Encourage questions and discussion.
- Do not read from your notes – be conversational and natural, speaking in a clear and animated voice.
- Watch the time – time your presentation beforehand and keep a clock or watch in view while you are making it.
- Move around – do not present from your chair. When responding to a question, approach the person who asked it. If someone seems inattentive, approach and speak directly to him or her.
- Use visual aids.
- Do not criticise – correct, explain and encourage.
- Have participants use the written materials provided – for example, make them look up standards and then read them out to the class (this teaches them how to find the human rights “rules” by themselves when the course is finished and they have returned to their duty stations). Materials which are not opened during the course are likely never to be opened.
- Be honest.
- Facilitate the participation of individuals who tend not to speak up. Draw them out with direct questions and then acknowledge the value of their comments. Pay particular attention to ensuring equal participation by women and members of minority groups.
- Do not let discriminatory, intolerant, racist or sexist remarks pass without comment. Address them as

you would address any other issue encountered during discussions, i.e. calmly, tactfully, directly and substantively. Point out the relevant standards and explain why they are important for the effective, legal and humane performance of the work of the relevant profession, and the role they play in fostering professionalism within those groups. Be prepared in advance to counter myths and stereotypes with facts.

- If you are confronted with a question which you are not prepared to respond to, refer to one of the other presenters (if there is one), or to the audience, or to the materials, or offer to provide the answer later (and be sure to follow up as promised).
 - Use repetition – people forget.
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Guide 1:

Due process and fair trial standards

1.1 Purpose

The right to a fair trial is one of the cornerstones of democracy and the rule of law. It is designed to protect individuals from the unlawful and arbitrary curtailment of basic rights and freedoms, the most prominent of which are the right to life and liberty. It is designed to ensure that all individuals are protected by law throughout the criminal process, from the moment of investigation or detention until the final disposition of their case.

The death penalty is irrevocable, and where criminal justice systems are open to error or discrimination, the death penalty will inevitably be inflicted on the innocent. Therefore proceedings leading to the imposition of the death penalty or to life/long-term imprisonment must conform to the highest possible standards of independence, competence, objectivity and impartiality in accordance with the pertinent international standards and norms.

Article 14 of the International Covenant on Civil and Political Rights (ICCPR) is the primary international treaty which sets forth standards for fair trial guarantees. Safeguard 5 of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty² also makes provisions for fair trial standards in a capital case.

Other applicable international instruments relating to fair trial standards include:

- UN Basic Principles on the Independence of the Judiciary³.
- UN Basic Principles on the Role of Lawyers⁴.
- UN Guidelines on the Role of Prosecutors⁵.
- UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment⁶.

1.2 Learning objectives

- To draw attention to the international standards and guidelines in the administration of justice.
- To familiarise members of the criminal justice sector with an understanding of the importance of fair trial standards in protecting the rights of those who have been accused of committing a capital or life / long-term crime and to explain how to apply these standards on a practical day-to-day use.
- To identify some of the most common and serious violations of fair trial standards.
- To identify gaps between national and international standards and current practices.

1.3 Target audience

Criminal defence lawyers, prosecutors and judges.

1.4 Essential principles

(i) Basic provisions: articles 9, 10, 14 and 26 ICCPR

- A. No one shall be deprived of his/her liberty except on such grounds and in accordance with such procedures as are established by law.
- B. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
- C. States must ensure that all individuals are treated equally before the law and are entitled without any discrimination to equal treatment by the law. This means that all persons must be granted, without discrimination, the right of equal access to a court.
- D. The rights relating to a fair trial apply to all courts and tribunals, which determine criminal charges, whether ordinary or specialised, this should also include military or special courts.

² Approved by UN Economic and Social Council resolution 1984/50 of 25 May 1984.

³ Adopted by the Seventh UN Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by UN GA resolutions 40/32 (29 November 1985) and 40/146 (13 December 1985).

⁴ Adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

⁵ *Ibid.*

⁶ Adopted by UN GA resolution 43/173 (9 December 1988).

(ii) Freedom from arbitrary detention: article 9 ICCPR

- A. The freedom from arbitrary detention ensures that the deprivation of liberty permitted by law is not manifestly disproportionate, unjust or unpredictable, and that the specific manner in which an arrest is made is not discriminatory, but is appropriate and proportional in view of the circumstances of the case.
- B. Therefore, there must be legal grounds for the arrest, and the arrest must be executed in a lawful manner. An important safeguard for this right is the duty to promptly bring the detainee before a judge who has the power to release the detainee if the arrest is unlawful. This ensures an effective control by an independent authority and therefore reduces the risk of arbitrary detention.

(iii) Protection from torture: articles 7 and 10 ICCPR, article 5 UDHR and the UN Convention Against Torture (CAT)

- A. The right to be protected from torture is applicable during all stages of criminal proceedings. It is an absolute and non-derogable right, it cannot be suspended, even in wartime or in a state of emergency, nor is it admissible to invoke superior orders to justify the use or threat of torture.
- B. According to international law, acts of torture constitute a disproportionate use of force by law enforcement officials, such as prolonged solitary confinement, physical pressure during interrogation (for example, hooding), prolonged playing of music, shaking, deprivation of sleep, threats of death etc., and medical experimentation.
- C. All evidence, including confession evidence, obtained through torture, should be strictly excluded from the trial because it is unreliable and likely to affect the fairness of proceedings.

(iv) Right to silence: article 14(3)(g) ICCPR

- A. An individual shall not be compelled to testify against himself or confess to guilt in the determination of a criminal charge.

- B. The right to silence comprises of two elements. Firstly, it is a generally accepted principle that the accused cannot be forced to incriminate himself. Thus, any coercion exerted by the judicial authorities with the aim of compelling the accused to make a statement or confess to guilt is prohibited during all stages of the proceedings. Secondly, the right to be presumed innocent is effected if the judicial authorities draw adverse inferences from the silence of the accused. The burden of proof rests on the prosecution, so that a conviction based solely or mainly on the silence of the accused violates the presumption of innocence. It is, however, possible to draw adverse inferences from the accused's silence without infringing his fair trial rights where the prosecution has already sufficiently proven the charges. To effectively make use of his right to remain silent, the accused must be informed of his rights.

(v) Presumption of innocence: article 14(2) ICCPR

- A. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
- B. This means that the burden of proof in a criminal trial rests with the prosecution and that the accused has the benefit of the doubt. It is generally accepted that the standard of proof required is "to the intimate conviction of the trier of fact or beyond a reasonable doubt, whichever standard of proof provides the greatest protection for the presumption of innocence under national law."⁷ Where an individual is being tried under a possible sentence of death or life imprisonment, the standard of proof should be the highest available.

(vi) Non-retroactivity of criminal law: article 15 ICCPR and Safeguard 2

- A. The principle of non-retroactivity of criminal law applies at all stages of judicial proceedings. The principle contains two elements: 1) actions that are not stated to be a crime cannot be the basis for investigations, prosecution, sentencing or punishment, and 2) in the case of legal reforms, no one can be prosecuted for an action that was

⁷ See Draft Third Optional Protocol to the ICCPR, Aiming at Guaranteeing Under All Circumstances the Right to a Fair Trial and a Remedy, Annex I, in: "The Administration of Justice and the Human Rights of Detainees, The Right to a Fair Trial: Current Recognition and Measures Necessary for its Strengthening," Final Report, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, 46th Session, E/CN.4/Sub.2/1994/24, 3 June 1994.

not a crime at the time of action, even if it is later defined to be a crime.

- B. International law ensures legal predictability and certainty. It is an absolute prerequisite for the rule of law, whereby individual liberties are protected against arbitrary and unwarranted intrusion of the state.
- C. This principle is not absolute. If the new law is more favourable for the accused than the old one under which the crime took place, this beneficial criminal law may be applied retroactively. This is called retroactivity of the most favourable law for the benefit of the accused

(vii) Right to an adequate legal defence: articles 9(2) and 14(3)(a)-(d) ICCPR and Safeguard 5

- A. Everyone accused has the right to a competent lawyer at all stages of the proceedings, including at trial, sentencing and appeal.
- B. This right includes not only the right to be assisted by a lawyer or to defend oneself, but also to have all the elements of evidence at one's disposal, as well as to put further questions to the witnesses. An integral part of this right is the duty of the judicial authorities to inform the accused of the charges made against him, his legal rights and of the relevant actions taken by the judicial authorities. All of this provides the defence with an equal opportunity to prepare and present the accused's case.
- C. Every accused should have adequate time and facilities for the preparation of their defence and to communicate with a lawyer of their own choosing. What constitutes adequate time will depend on the nature of the proceedings and the factual circumstances of a case. Factors to be taken into consideration should include, *inter alia*, the complexity of the case, the defendant's access to evidence and the time limits provided for in domestic law. Facilities should include access to appropriate information, files, documents etc. necessary for the preparation of a defence, and the ability to engage in confidential communications with a lawyer of their choice.
- D. Defence lawyers who represent death penalty or life and long-term imprisonment cases should be

of a high standard. Such criminal proceedings can be specialised and often differ from ordinary criminal cases, thereby requiring litigation and advocacy beyond the confines of the case itself, including at the sentencing stage, appeal and during clemency or parole processes.

- E. Defence lawyers in capital cases should ensure that they have substantial knowledge of the relevant domestic, regional and international law, both procedural and substantive, governing capital/life cases; skills in the management and conduct of complex litigation; skills in legal research, analysis and the drafting of litigation documents; skills in oral and trial advocacy, including jury selection, cross-examination of witnesses, and opening and closing statements; skills in the use of expert witnesses and familiarity with common areas of forensic investigations, such as DNA evidence and ballistics; skills in investigation, preparation and presentation of evidence both going to the mental state of the defendant, the victim(s) and any witness(es) and also for use as mitigation.
- F. In the interests of justice, the accused should be entitled to legal aid in full equality at all stages of the proceedings, if he does not have sufficient means.

(viii) Legality of courts: article 14(1) ICCPR and Safeguard 5

- A. The prerequisite for a fair trial is that proceedings are conducted in a fair and public hearing by a competent, independent and impartial tribunal established by law. The criterion for evaluating fairness is the principle of equality of arms between the defence and the prosecution; this means that both parties are treated in a manner which ensures procedural equality throughout all stages of the trial.
- B. A court is obliged to make information about the time and venue of the hearing available to the public and provide adequate facilities for attendance, including by the press.
- C. The court or tribunal hearing a case must be established by law, i.e. the constitution or other legislation. It must have the jurisdiction to hear the case.

(ix) Access to the courts: article 9 ICCPR

- A. The right of access to the courts means that everyone must have the opportunity of addressing a court in order to determine his rights, without being hindered by the law, administrative procedures or material resources. In essence, it is the right to be heard and to be given the opportunity to present one's case.

(x) Independence and impartiality of judges: articles 9(3) and 14(1) ICCPR

- A. An independent judiciary plays a significant role in the protection of fair trial standards. Judges should treat the parties in a fair and equal manner and should make an objective decision based on the facts of the individual case.
- B. In the interest of the separation of powers, a competent judicial body that is not unduly influenced by the executive or legislative is called for.

(xi) Trial without undue delay: articles 9(3) and 14(3)(c) ICCPR

- A. The requirement of a prompt trial in criminal cases obliges the authorities to ensure that all proceedings, from the pre-trial stages to the final appeal, are completed within a reasonable time.
- B. This right must however be balanced with the right to have adequate time for the preparation of a legal defence.

(xii) Public hearing: article 14(1) ICCPR

- A. The principle of the public conduct of a trial consists of two components: the right to a public hearing and the right to a public judgement.
- B. The public nature of a hearing is an important safeguard in the interest of the individual as justice is administered in a transparent manner. It also provides the court with an opportunity to affirm its independence, impartiality and fairness, thereby increasing a general sense of trust in the judicial system among the civilian population.
- C. There are several permissible exceptions to a public hearing, by which the press and the public

may be excluded from all or parts of the hearing, for example, in juvenile cases.

(xiii) Witnesses: article 14(3)(e) ICCPR and Safeguard 4

- A. The right to call and examine witnesses is an integral part of the right to an adequate defence (see above). It provides the defence with an opportunity to question witnesses who can submit exonerating or extenuating evidence, and to challenge the evidence put forth by the prosecution. Consequence of this right is that all of the evidence must normally be produced in the presence of the accused at a public hearing, so that the evidence itself and the reliability and credibility of the witness can be challenged.
- B. There can be some exceptions to the rule, for example to protect the witness, but these exceptions cannot infringe the rights of the defence. There may be limits to the right to examine witnesses due to practical factors, such as the unavailability of the witness or when the witness reasonably fears reprisal. However, the judicial authorities must not be negligent in their duty to find the persons concerned.

(xiv) Interpreters and translation: article 14(3)(f) ICCPR

- A. The right to an interpreter is essential, given that all rights to a proper and adequate defence are useless if the accused does not have the relevant linguistic capabilities to understand the charges brought against him/her, or to understand the criminal proceedings at every stage in the process. This right does not only apply to foreigners, but also to members of linguistic minorities.
- B. Due to the importance of the assistance of an interpreter in criminal proceedings, the costs should be covered by the state in all those cases where the accused has no financial resources.

(xv) Right to consular communications and assistance for foreign nationals: article 36 Vienna Convention on Consular Relations

- A. If a foreign national is arrested or committed to prison or custody pending trial, the authorities must inform the detained person, without

delay, of their right to contact the consular authorities of their home state. These contact rights include communication with and access to a local consular official, delivery of written communications and visits.

(xvi) Sentencing

- A. Capital cases effectively encompass two different trials – one regarding whether the defendant is guilty of a capital crime, and the other concerning whether the defendant should be sentenced to death.
- B. The UN Human Rights Committee have held that a system of mandatory capital punishment would deprive the offender of the most fundamental of rights, the right to life, without considering whether this exceptional form of punishment is appropriate in the circumstances of his or her case. Therefore, an offender should have an opportunity to inform the court at the sentencing trial of all relevant circumstances of his or her case, so that the court can take them into consideration when deciding whether this exceptional form of punishment is appropriate.
- C. The sentencing process for a discretionary death sentence involves a two-stage process:
- What sentence does the seriousness of the offence itself merit? The Court should take into consideration the type and gravity of the offence, as well as the circumstances surrounding the offence, such as whether there might be partial excuses such as provocation or undue influence, whether there was a lack of premeditation or diminished responsibility of the defendant.
 - Can that sentence be reduced in light of mitigation relating to the offender? This includes factors such as the defendant's own individual history, including their mental and social problems, their criminal record and likelihood for rehabilitation, their continuing dangerousness, and demonstrated remorse.
- D. The defence lawyer should investigate all potential mitigating evidence, which should either help explain why the defendant committed the crime (there must be a link between cause and effect), or to at least that would construct a persuasive narrative that the client should not be sentenced to death. Avoid simply presenting a catalogue of seemingly unrelated mitigating factors. Lawyers should explore the client's:
- Medical history (hospitalisations, mental and physical illness or injury, alcohol and drug abuse, pre-natal and birth trauma, malnutrition, development delays, and neurological damage).
 - Family and social history (physical, sexual and emotional abuse, or domestic violence; poverty, familial instability, neighbourhood environment and peer influence).
 - Other traumatic events such as exposure to criminal violence, the loss of a loved one or natural disaster; experiences of racism or other social or ethnic bias; cultural or religious influences; failures of government or social intervention (e.g. failure to intervene or provide necessary services, placement in poor quality foster care or juvenile detention facilities).
 - Educational history (including achievements, performance, behaviour and activities; special educational needs including cognitive limitations and learning disabilities; and opportunities or lack thereof).
 - Military service (including length and type of service, conduct, special training, combat exposure, health and mental health services).
 - Employment and training history (including skills and performance, and barriers to employability).
 - Prior criminal record (including conduct while under supervision, in institutions of education or training, and regarding clinical services).
 - Any adverse impact the client's execution will have on his / her family and loved ones.
- E. Lawyers should also determine at the earliest opportunity what aggravating factors the prosecution may rely upon, and what evidence will be used to support this. Consider whether all or part of the aggravating evidence may appropriately be challenged as improper, inaccurate, misleading or not legally admissible.
- F. Use evidence, such as photos, videos and physical objects (artwork, military medals), certificates of awards, favourable press accounts, letters of praise and reference etc. that will humanise the client or portray him positively.

(xvii) Right to appeal: article 14(5) ICCPR and Safeguards 6 and 8

- A. The right to appeal balances the necessity of having a reliable sentence that protects rights of the accused on the one hand, and provides a judge in a higher court to address the mistakes may by the previous judge in reaching a decision.
- B. Where an appeal process is pending, the sentence of death should be stayed until all stages of the appeal have been completed.

(xviii) Post-conviction

- A. Ensuring high quality legal representation in capital trials, however, does not diminish the need for equally effective representation post-conviction. Post-conviction proceedings often demand a high degree of technical proficiency, and skills essential to effective representation differ in significant ways from those necessary to success at trial.
- B. Lawyers should be familiar with all options including appeal, judicial review, clemency / pardon processes, stay of execution etc. available to the client. Each of these proceedings has a unique role to play in the capital process, and they should all be discussed fully with the client.
- C. Post-conviction proceedings may be subject to rules that provide less time for preparation than is available in non-capital cases. Therefore the defence lawyer should be aware of all relevant deadlines and rules. Relevant action(s), such as filing a notice of appeal and/or motion for a re-trial if this will maximise the client's ability to obtain post-conviction relief, should be filed promptly.
- D. Lawyers should monitor the client's personal conditions for other potential legal consequences. For example, changes to the client's mental state may bear on his capacity to be executed.

(xix) Clemency and pardon procedures: article 6(4) ICCPR and Safeguard 7

- A. Clemency and pardon procedures play an important part in death penalty cases. They present the state (usually the executive arm of government) with a final, deliberative opportunity to reassess this irrevocable punishment.

- B. Some states have begun to apply due process protection to clemency and pardon proceedings. Where this applies, lawyers must be ready to present a persuasive argument to the decision-maker. Such arguments can include legal or factual claims, doubts about the defendant's guilt or reliability of the trial, be based on mitigating factors such as the defendant showing remorse or forgiveness by the victim/s, inhumane prison conditions, or changes at the national level of the use of the death penalty such as changing government policy.
- C. Often some kind of report will be required by the executive authority detailing the circumstances of the petitioner's case and the petitioner's history. This may take into consideration court opinions, comments of the prosecutor and the victim/s of the crime (or the family member's of the victim/s), reports of the police warden at the facility where the prisoner is currently incarcerated, the prisoner's most recent "progress report" if one is available, the investigation report, or any media coverage of the case.
- D. However, in many states the clemency and pardon procedures are often purely discretionary. The discretionary power of the executive to issue pardons or clemency is often considered controversial and susceptible to abuse. Circumstances have arisen in states where it has been applied inconsistently, selectively, arbitrarily, or without strict, publicly accessible guidelines.
- E. Capital punishment shall not be carried out pending any pardon or commutation procedure (Safeguard 8).

1.5 Issues for discussion

- Organise a discussion on the general right to a fair trial, and what this encompasses in practice. Discuss essential principles and relevant international standards.
- What are the risks that fair trial standards could be abused or violated? What rights are most often violated? How? Why?
- At what stage of the legal proceedings are these rights applicable?

- Which sectors of the criminal justice system have a duty to apply these rights?
 - How can fair trial standards be monitored? How can competency, independence and impartiality be measured and monitored?
 - Should there be national standards for lawyers in capital cases? Who should set these standards? Are there any standards available in your jurisdiction?
 - Organise a discussion on what type of aggravating and mitigating standards might be considered in a capital case. At what stage of the legal proceedings would these considerations be taken into account?
 - Should parole or clemency be a purely discretionary decision, or should governments develop publically-accessible guidelines and/or criteria for making such decisions? If so, what should be included in pardon or clemency guidelines / criteria?
 - How does the domestic law of your country manage pardon and clemency reviews? Do you think that there might be ways to improve the current system to make it more fair and systematic?
 - How does the domestic law of your country compare to international fair trial standards? Are there any apparent conflicts? What can be done to resolve those conflicts?
2. You are the investigating officer in this case, and because of the serious nature of the offence, you want to ensure that you carry out a thorough investigation and obtain a lawful conviction of the alleged perpetrator. How would you go about doing this?
 3. You are the trial judge in this case, what duties do you owe to the court to uphold fair trial standards?
 4. You are the chief prosecutor in this case, what are your concerns in obtaining a lawful conviction?
- What impact would there be to Prisoner X if the crime he was being tried for was down-graded from a capital to life-imprisonment offence during the course of his trial?
 - This case study would lend itself well to a mock trial: Defendant Y has been convicted for the crime of murdering his pregnant girlfriend in a jealous rage after he found out that his girlfriend had been having an affair. Defendant Y is 21 years old, illiterate, suffers from depression and his family have a history of schizophrenia. He has no criminal record, but the police have been called out a number of times to his home when his girlfriend complained of violent outbursts. During the trial, Y has showed remorse for his girlfriend, who he claims to have loved dearly, and the loss of his unborn child. He has sent a letter to his girlfriend's family apologising for his actions, which he described as being "in the heat of the moment".
 1. As his lawyer, how would you proceed in the sentencing trial? What arguments would you raise to reduce the imposition of the death sentence?
 2. You are the state prosecutor in this case, what sentence would you be calling for? What are your responsibilities, and how would you go about implementing them?
 3. You are the sentencing judge in this case, what factors would you take into consideration in deciding the appropriate sentence for defendant Y? What would your decision be, and how would you come to that decision?

1.6 Case studies

- Prisoner X, a foreign national, has been arrested and charged with a terrorism-related offence. He is currently being held in pre-trial detention. If convicted, he may face the death penalty. He has no access to funds and is therefore reliant on legal aid. He is illiterate and does not speak the language of the arresting state. The key evidence that the prosecution is relying on is a confession statement signed by the prisoner, which was not witnessed by any lawyer.
 1. You are the defence lawyer in this case, what would you advise him are his rights, and how would you ensure that those rights are protected?

Guide 2:

International standards on the treatment of prisoners

2.1 Purpose

To train prison staff on the principles of human rights and human dignity that is applicable to death row prisoners and prisoners serving life and long-term sentences.

People who are *lawfully* detained or imprisoned forfeit, for a time, the right to liberty. These people may have certain rights limited, including the right to certain personal liberties; the right to privacy; freedom of movement; freedom of expression; freedom of assembly, and freedom to vote. Whether and to what extent any further limitation of rights is a necessary and justifiable consequence of the deprivation of liberty remains a subject of debate. However, the conditions of imprisonment should not be used as an additional punishment.

International standards are an important tool for making prisons better places. They can make prison administrations question their practice and come up with improved, more efficient, more humane ways to manage their institution.

Prison officials carrying out their functions in a manner which respects and protects human rights bring credit not just to themselves, but also to the government which employs them and the nation which they serve. Those who violate human rights will, ultimately, draw the spotlight of international scrutiny and the condemnation of the international community.

The aim of this section is to promote the implementation of international human rights standards in prisons.

2.2 Target audience

Mid-level prison officers (warders, head warders, chief warders and assistant superintendents).

2.3 Objectives

- To draw attention to the international standards and guidelines governing the treatment of death row prisoners and prisoners serving life and long-term sentences and to discuss their special needs.
- To explain what is meant by international standards related to the human rights of prisoners and good prison practice and to explain the different types of such standards that exist.
- To familiarise prison staff with an understanding of the importance of protecting and respecting these rights.
- To identify some of the most common and serious violations of human rights and human dignity in the prison setting.
- To prepare prison officers to carry out their roles and responsibilities while preserving the human rights and human dignity of prisoners and to protect them from these abuses as may be carried out by others.

2.4 Essential principles

(i) Basic provisions:

- A. All persons deprived of their liberty shall be treated at all times with humanity and with respect for the inherent dignity of the human person (Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment [Principles on Detention or Imprisonment], Principle 1). It is important to remember that people in prison do not lose their basic human dignity. People in prison retain all human rights except for the right to liberty. The conditions of imprisonment should not be used as an additional punishment. Prison should consist of a loss of liberty, *but nothing more*.
- B. Prisons and prison officials have a particularly important role in protecting human rights in their daily work.
- C. Prison officials are obliged to know, and to apply, international standards on human rights. This includes, among other international standards, the Standard Minimum Rules for the Treatment of Prisoners (SMR)⁸.
- D. Widespread respect for human rights leads necessarily to better, more efficient managed prisoners.

⁸ Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

(ii) Torture and ill-treatment

- A. No one shall be subjected to torture or ill-treatment (article 5 UDHR; article 7 ICCPR; preamble and article 2 Convention Against Torture (CAT)). Torture is defined as any act by which severe physical or mental pain or suffering is intentionally inflicted on a person, other than that which is inherent in or incidental to lawful sanctions (article 1 CAT). Ill-treatment is defined as other acts of cruel, inhuman, or degrading treatment or punishment which do not amount to torture (article 16 CAT).
- B. Law enforcement officials shall be fully informed and educated about the prohibition of torture and ill treatment (article 10 CAT). Any statement made as a result of torture shall not be invoked as evidence in any proceedings (article 15 CAT).
- C. Any individual who alleges he has been subjected to torture has the right to complain and to have his case promptly and impartially examined by competent authorities. All incidents shall be properly investigated (article 13 CAT).

(iii) Accommodation

- A. All persons deprived of their liberty have the right to an adequate standard of living, including adequate food, drinking water, accommodation, clothing, and bedding (article 25 UDHR; article 11 International Covenant on Economic, Social and Cultural Rights [ICESCR]).
- B. Accommodations shall be clean and sanitary and provide adequate cubic contents of air, floor space, lighting, heating, and ventilation (SMR, Rule 10).
- C. Prisoners have the right to wholesome, adequate food at the usual hours and with drinking water available whenever needed (article 11 ICESCR; SMR, Rule 20).
- D. Clothing as a component of the right to an adequate standard of living is a human right. Prisoners not allowed to wear their own clothing shall be provided with suitable clothing. There shall be facilities for keeping clothing clean and in proper condition (article 11 ICESCR; SMR, Rules 17, 18 and 19).

- E. Prisoners shall be provided with a separate bed and clean bedding, with facilities for keeping bedding clean (SMR, Rule 19). Prisoners required to share sleeping accommodation shall be carefully selected and supervised at night (SMR, Rule 9.2).

(iv) Health care

- A. The enjoyment of the highest attainable standard of physical and mental health is a human right (article 12 ICESCR).
- B. The primary responsibility of health-care personnel is to protect the health of all prisoners. As such, decisions about a prisoner's health should be taken only on medical grounds by medically qualified people (SMR, Rule 25). Health-care personnel shall not commit or give their permission for any acts which may adversely affect the health of prisoners.
- C. At least one qualified medical officer should be available to provide care to prisoners and detained persons. The medical officer has responsibility to ensure that proper health standards are met including suitability of food, water, hygiene, cleanliness, sanitation, heating, lighting, ventilation, clothing, bedding, and opportunities for exercise (SMR, Rule 26).
- D. All prisoners should be given a medical examination as soon as they have been admitted to a prison or place of detention (SMR, Rule 24; Principles on Detention or Imprisonment, Principle 24).
- E. All prisons shall provide the services of at least one qualified medical officer who should have some knowledge of psychiatry. Sick prisoners who require specialist treatment shall be transferred to specialised institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers (SMR, Rule 22).
- F. Any necessary medical treatment (mental or physical) at the level generally available within the country should be provided free of charge (Principles on Detention or Imprisonment, Principle 24).

- G. All prisoners shall have at least one hour's daily exercise in the open air if the weather permits (SMR, Rule 21).
- H. Prisoners suffering from mental illnesses shall be treated in specialised institutions under medical management, or treated and supervised by prison medical services as appropriate (SMR, Rule 82).

(v) Security and control

- A. Prisons should be safe environments for all who live and work in them: prisoners, staff, and visitors. No one should fear for his physical safety. Discipline and order shall be maintained with firmness but with no more restriction than is necessary for safe custody and well-ordered community life. Law enforcement officials may use force only when it is strictly necessary (SMR, Rule 27).
- B. All offences and punishments must be specified by law or published legal regulations. No prisoner shall be punished before being informed of the alleged offence and having the opportunity to present a proper defence (SMR, Rules 29 and 30). Prisoners who are subject to disciplinary action should have the right of appeal to a higher authority.
- C. All cruel, inhuman or degrading punishments are completely prohibited, including corporal punishment or confinement in a dark cell (SMR, Rule 31).
- D. Staff in direct contact with prisoners should not usually be armed. Firearms shall not be used except in self-defence or defence of others against imminent threat of death or serious injury; or when strictly necessary to prevent the escape of a person presenting a grave threat to life (Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principles 9 and 16).
- E. Instruments of restraint shall never be applied as a punishment. Chains and irons shall not be used as restraints. Restraints may be used only as a precaution against escape during transfer, provided they are removed when the prisoner appears before a judge or administrative authority; on medical grounds; and for no longer than strictly necessary (SMR, Rule 33).

- F. Punishment by close confinement or reduction of diet shall never be inflicted unless the prisoner is certified by the medical officer as medically fit to sustain it (SMR, Rule 32).
- G. It is prohibited to employ prisoners to discipline other prisoners (SMR, Rule 28.1).

**(vi) Work, education, religion and rehabilitation
(see Guide 5 for further information)**

- A. The treatment of prisoners should encourage personal reformations and social rehabilitation (article 10(3) ICCPR). The purpose of the prison regime should be to help prisoners to lead law-abiding and self-supporting lives after release (SMR, Rules 65 and 66).
- B. All sentenced prisoners who are medically fit shall be required to work and be remunerated for the work they do in a manner which allows them to save and spend at least part of their earnings. As far as possible, work should give them skills so they can earn an honest living after their release. Vocational training shall be provided, especially for young prisoners (SMR, Rules 66, 71 and 76).
- C. Education and cultural activities shall be provided and encouraged, including access to an adequate library. Education shall be compulsory for young prisoners and for illiterate prisoners (SMR, Rules 40, 77 and 78).
- D. All prisoners have the right to observe the tenets of their religion and to have access to a minister of that religion (article 18 UDHR; article 18 ICCPR; SMR, Rule 41).
- E. Prisoners shall be assisted in ensuring their future reintegration into society including the means and available resources to maintain themselves in the period immediately following their release (SMR, Rules 80 and 81).
- F. All prisoners have the right to communicate with the outside world. A prisoner's request to be held in a prison near his or her home shall be granted as far as possible. No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence (SMR, Rule 37). Prisoners shall be kept informed of important items of news (SMR, Rule 39).

(vii) Complaints, inspection and access to justice

- A. Anyone whose rights and freedoms have been violated has the right to an effective remedy, determined by a competent court (article 2 ICCPR).
- B. On admission every prisoner shall be provided with written information on rules, complaints and disciplinary procedures in a language which he understands. If necessary, these rules should be explained orally (SMR, Rule 35).
- C. Every prisoner shall have the right to complain regarding his treatment and unless the complaint is evidently frivolous, to have it dealt with promptly and, if requested, confidentially. If necessary, the complaint may be lodged on behalf of the prisoner by his or her legal representative or family (SMR, Rule 36). If a complaint is rejected or not responded to in a timely manner, the complainant shall be entitled to bring it before a judicial authority.
- D. Prisons inspections, by qualified and experienced inspectors from a competent authority separate from the prison administration, shall take place regularly. Every prisoner shall have the right to communicate freely and confidentially with inspectors, subject only to the demands of good order and discipline in the institution (SMR, Rules 36.2 and 55).

**(viii) Vulnerable prisoners and prisoners deserving special treatment
(see Guide 4 for further information)**

- A. All persons are equal before the law and are entitled, without discrimination, to equal protection of the law (article 7 UDHR; articles 2 and 26 ICCPR). While detention should only be used when necessary for all persons, the greater risk and potential damaging effects of imprisoning groups of vulnerable prisoners implies that their detention must be carried out with extreme caution and care in order to ensure the protection of their human rights.
- B. Vulnerable prisoners are those who, because of age, gender, ethnicity, health, legal or political status, face an increased risk to their safety, security, or well-being as a result of their

imprisonment. This group can include juveniles, women and mothers, the mentally ill, foreigners, minorities or indigenous peoples, the elderly and physically disabled or ill persons.

- C. Juveniles are defined as persons under the age of eighteen (article 1 CRC). Juveniles in detention are considered vulnerable due to their comparative weakness and the long-term damage that can result from incarceration. Detained juveniles shall be separated from adult prisoners (article 10.2(b) ICCPR; SMR, Rule 8(d)), and special efforts shall be made to allow detained juveniles to receive visits from and correspond with family members (articles 9, 10 and 37 CRC; SMR, Rule 37). The penalty of life imprisonment without the possibility of release shall not be imposed for offences committed by juveniles (article 37(a) CRC).
- D. The degree of risk and long-term negative effects involved in placing women, and especially mothers, in prison require that they be given special consideration and protection (see Bangkok Rules on the Treatment of Women Prisoners). In particular, women prisoners shall be detained separately from male prisoners (SMR, Rule 8), and women prisoners shall be supervised and searched only by female officers and staff (SMR, Rule 53). Pregnant women and nursing mothers who are in prison shall be provided with the special facilities which they need for their condition, and whenever practicable, women prisoners should be taken to outside hospitals to give birth (SMR, Rule 23.1).
- E. Unless they pose a substantial and demonstrable threat to the community, mentally ill prisoners should not be in prison (SMR, Rule 82). Their different and often limited understanding of persons and events around them, and the particular risks they face in prison, mandate that they be given special consideration and extra protection.
- F. Foreigners and minorities constitute a category of vulnerable prisoners who deserve special consideration and protection due to their differences from the majority of the community, their special needs, and, in many instances, their isolation and communication difficulties. Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with

diplomatic representatives of their state (SMR, Rule 38.1).

- G. Life and long-term prisoners are a category of vulnerable prisoner due to the potential damage that long-term imprisonment can have on their mental well-being caused by the length of sentence or the uncertainty of their release date. Prison administrators must assist prisoners to plan their sentences in such a way as to maintain their sense of self-respect, to develop their sense of responsibility and avoid the dangers of institutionalisation (SMR, Rules 65 and 66). The essential aim of the treatment of prisoners shall be their reformation and social rehabilitation (article 10(3) ICCPR). Life-sentence prisoners should be eligible for release into society once they have served a sufficient period of time in custody to mark the seriousness of their offence/s (resolution (76) 2 of 17 February 1976 of the Committee of Ministers of the Council of Europe on the treatment of long-term prisoners).
- H. Prisoners under sentence of death constitute a category of vulnerable prisoners who merit special consideration and protection due to the nature of their sentence. (see *Guide 3 for further information*)

(ix) Administration of prisons and prison staff

- A. In order for prisons to be places where people are treated humanely, they must be managed by professional, well-trained staff. Staff must be treated with dignity and ensured a decent standard of living. Prisons should be administered in a way that is open and transparent.
- B. The administration of the prison staff should be in civilian hands. It should not be part of a military structure (SRM, Rule 46.3).
- C. Persons deprived of their liberty should be held in places which are officially recognised as places of custody (General Comment No. 20 on article 7 ICCPR).
- D. A detailed register shall be kept of every person deprived of liberty (SMR, Rule 7). Families, legal representatives, and, if appropriate, diplomatic missions, of prisoners are to receive full information about the fact of their detention and where they are held (Principles on Detention

or Imprisonment, principle 12; Principles on Summary Executions, Principle 6).

- E. Personnel shall be full-time prison officers, with civilian status, salaries adequate to attract and retain suitable men and women, and favourable employment benefits and conditions of service (SMR, Rule 46.3). They shall be carefully selected for their integrity, humanity, professional capacity, and personal suitability. Personnel shall have an adequate standard of intelligence and education and shall be well-trained before assuming duty and during their service (SMR, Rule 47), and conduct themselves in a manner which commands the respect of prisoners (SMR, Rule 48). Specialists including psychologists, social workers, teachers, and trade instructors should be available in sufficient numbers from either the prison service or related departments and ministries (SMR, Rule 49).
- F. The director of an institution should be adequately qualified for his or her task, appointed on a full-time basis and resident on the premises or in its immediate vicinity (SMR, Rule 50).

2.5 Issues for discussion

- What are some of the international human rights standards relating to the administration of justice that are generally accepted by the world community? What are some standards that have created dissension? What are some of the reasons for this dissension?
- Should the international standards be viewed as goals and aspirations rather than as real commitments upon which individual countries should be judged?
- How does the domestic law in your country compare to international human rights standards? Are there any apparent conflicts? What can be done to resolve those conflicts?

2.6 Case studies

- Your country is poor, with very few resources for its citizens. Poverty is widespread, as is poor housing and illness. If the government upgrades

the prisons so that they comply with international standards, life for those in prison will be better than it is for those who are not in detention. Where is the justice in that?

- You would like to make many improvements to your prisons, especially those related to the conditions of detention. However, limited resources prevent you from doing everything that is required by the international standards. How can you prioritise the improvements?
- You are the deputy director of a prison. The prison recently took custody of a convicted terrorist who was the ringleader behind a series of bombings that took the lives of over a hundred innocent men, women and children in your country. The public wants the terrorist to be punished. Leading politicians and community leaders have demanded that the terrorist should be placed in solitary confinement with no amenities. Bowing to this pressure, the director of the prison has instructed you to move the terrorist to the prison's isolation cell - a 2 x 2 meter concrete room with no windows. The director says that the terrorist must stay in this cell for at least 23 hours a day. He contends that this arrangement is in the terrorist's best interest because other prisoners have already threatened harm.
 - Which international standards apply in this situation, and where would they be found?
 - What international standards would not be upheld if the director's plan were followed?
 - Would you follow the director's instructions - why or why not? Is there an appropriate compromise?
 - If the director opted for a more humane approach, how would you deal with public opinion?
- Suppose that under the law of your country, and in the opinion of judges who have investigated recent specific complaints by prisoners, the occasional slapping of unruly prisoners is considered a justifiable use of force. An international inspection committee against torture has now stated that the use of slapping is completely unacceptable and amounts to cruel, inhuman, and degrading treatment. How should the prison administration respond?
- You are the director of a prison. You have discovered that most of the prison staff are unfamiliar with both international human rights standards and domestic laws relevant to good prison management. You are interested in developing a training programme to educate your staff.
 - What types of resources could you draw upon to help design your programme?
 - Discuss what topics you would want to cover in your programme.
 - What types of educational materials would enhance the learning experience?
 - Which members of the prison staff should attend?
 - How extensive should the programme be - one session, an entire day, a week?
 - What kind of follow-up activities do you think might be needed?

Guide 3:

Prisoners under sentence of death

Important Note: Penal Reform International respects the fundamental human right to life, and is opposed to all killing, whether judicial or extrajudicial, in all circumstances - regardless of guilt or innocence. This Guide addresses some of the special problems faced by prisoners facing a sentence of death, and argues for their fair and humane treatment. It should in no way be understood as a condoning of the death penalty.

3.1 Purpose

Prisoners under sentence of death are an especially vulnerable category of prisoners who are particularly affected by and suffer from their situation as individuals condemned to die.

Although prison administrations are not directly responsible for whether the death penalty is imposed or not, they are responsible for the conditions of those upon whom any sentence has been imposed. Conditions of prisoners under sentence of death are often much worse than those of their fellow prisoners. They are often held for many years when there are lengthy appeal procedures or when a state has suspended executions but has not abolished the death penalty or commuted existing sentences. Even countries that have abolished the death penalty in practice may still have prisoners on death row.

Prison administrations are sometimes also responsible for carrying out executions. These tasks place a heavy burden on the staff that is involved. It is important that everyone involved understand how prisoners under sentence of death should be treated according to international standards.

3.2 Learning objectives

- To identify the primary international standards regulating the detention of those under sentence of death and the rights and provisions accorded by them.
- To discuss the special needs of prisoners under sentence of death and identify the steps that can be taken to safeguard the physical and mental well-being of these prisoners.
- To demonstrate skills for dealing effectively with the problems faced by prisoners sentenced to death.

- To identify steps that can be taken to safeguard the legal rights of prisoners sentenced to death.

3.3 Target audience

Mid-level prison officers (warders, head warders, chief warders and assistant superintendents).

3.4 Essential principles

(i) Basic provisions:

- A. The deprivation of life by the authorities of the state is a matter of the utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by the authorities of a state.
- B. Conditions of prisoners on death row at the very least should not be worse than those of other prisoners. At least humane living conditions, activities, and communication facilities should be provided to prisoners on death row, as well as professional psychiatric help (Resolution on Physician Participation in Capital Punishment).
- C. Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering (ECOSOC resolution 1984/50; and HRC General Comment No. 20).

(ii) Problems in application of the death penalty

- A. It is important for prison administrations to understand that problems in the application of the death penalty are very common.
- B. There are problems of racial, religious, and political discrimination in the sentencing and application of the death penalty. Around the world, those who are sentenced to death or executed are disproportionately minorities, members of marginalised economic or ethnic groups, or those agitating for political change.
- C. Additionally, many legal systems are fragile, non-transparent and discriminatory. Many states are unwilling or unable to provide competent legal representation to poor and disadvantaged persons. Death sentences are often the result of

deeply flawed judicial proceedings in contravention of international norms for a fair trial. International standards are clear that the guilt of anyone facing the death penalty must be established on the basis of clear and convincing evidence, leaving no room for an alternative explanation of the facts. Even in carefully executed trials, however, there is always a danger of miscarriage of justice and wrongful execution.

(iii) Prison conditions for death row prisoners

- A. Prisoners on death row are usually held in atrocious conditions, frequently treated violently or inhumanely, and have limited links and contacts with their relatives and lawyers. In most countries which retain the death penalty, prisoners under sentence of death are separated from other inmates and have a special regime in the prison. They are generally confined to maximum-security areas, often in a specific building, and are subjected to severe security measures which are rarely justified based on the real level of danger they pose. As a result of these conditions, as well as the stress of facing a death sentence, death row prisoners are vulnerable to mental strain, legal frustrations, and often neglect for months, years, and even decades.
- B. Prisoners should not be held in unduly restrictive circumstances purely on the grounds that they have been sentenced to death. The period for legal appeal against a sentence of death can be lengthy, so there is no justification for placing death row prisoners in solitary confinement or in excessively restricted environments during this time simply because they have been sentenced to death.
- C. Accommodation for prisoners sentenced to death, in particular sleeping accommodation, shall meet the same health requirements as other prisoners. All detainees must have access to fresh air and sunshine, adequate lighting, minimum floor space, heating, and ventilation. The prison administration should ensure access to private and hygienic sanitation, bedding and water.
- D. Prisoners on death row should have access to the same activities and employment, educational and training opportunities as other prisoners. Reading and writing materials in their cells should be readily available. Where libraries exist, they should be accessible to death row prisoners. This access should include law books, which for death row inmates may be the only avenue to submit an appeal that might save their lives.

- E. Death row prisoners should not be discriminated against in access to work: they should have the opportunity to work in the same manner as other inmates. Like other inmates they should never be subject to humiliations like being chained together in groups for work.

(iv) Communication with friends and family

- A. Isolation is often the worst aspect of the death row regime: to be separated from one's family and friends is among the most acute pains of imprisonment. In general, rules for access to death row inmates are overly restrictive.
- B. Concerning written correspondence, as for other inmates, there should be no limits imposed on the number of letters a prisoner may send or receive and the number of correspondents a prisoner may have. Communication with the outside world shall not be denied for more than a matter of days.
- C. Like all other prisoners, those under sentence of death should be allowed to maintain contact with their family and friends, particularly by means of visits under appropriate circumstances. The conditions in which visits are conducted are of great importance for preserving a prisoner's dignity. They should take place in decent conditions with sufficient privacy to permit meaningful and constructive communication; this includes allowing physical contact. Prisoners facing death (and the families of those prisoners) may experience especially acute shame and stigma related to their sentence. Sensitivity should be extended not just to the prisoner who is awaiting death but also to his family or other visitors.
- D. Because of the social stigma associated with the death penalty and restrictive visiting rules, prisoners under sentence of death often have trouble communicating with the outside world. To deal with this problem, some NGOs and community groups have set up programmes that help these prisoners receive visitors and messages. Some of these programmes are linked

to efforts to abolish the death penalty, while others have purely humanitarian goals.

(v) Access to legal assistance

- A. For prisoners under sentence of death, there is the immediate threat of execution and therefore a great urgency to obtain proper legal representation.
- B. International standards are clear that anyone sentenced to death should have the right to an appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.
- C. Anyone sentenced to death shall also have the right to seek pardon or commutation of the sentence. Pardon or commutation of the sentence of death may be granted in all cases. Petitions for clemency are sometimes prepared without the knowledge of the prisoner, who may not even sign the document. Like appeal processes, legal assistance at this stage is essential to guarantee the rights of prisoners to access justice.
- D. In practice, however, it is very common for those sentenced to death to have had (and to continue to have) inadequate legal representation – both during the trial and after conviction. Prisoners often do not have the financial or informational resources to challenge convictions or to establish violations of their domestic and international human rights. Public attorneys are often overworked and it is always difficult to find a lawyer with experience in capital cases. Consequently, many prisoners find it nearly impossible to file an appeal to a higher court. Such practices undermine the right to a fair trial.
- E. Though they cannot remake the criminal justice system, prison administrations can help by keeping adequate records, responding promptly to requests for information, and allowing prisoners full access to legal aid and assistance.
- F. Prison administrations must allow death row prisoners, like all prisoners, full and complete contact with lawyers and other legal aid personnel, when available. Rules governing these visits should not be restrictive. Prisoners should be provided with adequate opportunities, time, and facilities to be visited by and to communicate with a lawyer without delay or censorship and in full confidentiality. Such visits normally take place within sight but not within hearing of prison staff.
- G. Prison administrations can actively work with NGOs and lawyer or paralegal groups that provide legal aid for prisoners. Many kinds of prisoner mistreatment can be prevented through enhanced communication, cooperation and coordination between various criminal justice agencies. As a part of their work, some legal aid groups have begun a programme of automatically filing an appeal for prisoners on death row.
- H. Prison administrations, when faced with the problem of a lack of legal access for prisoners on death row, can communicate and work together actively with the judiciary. In general, prisons and the judiciary should have a close working relationship. When problems occur, such as a lack of legal assistance for prisoners on death row, prison administrators need to discuss with the judiciary possible solutions. In individual cases, prison administrators can answer prisoners' requests for help by contacting relevant judges and legal representatives.
- I. Prison administrations – often with the help of legal aid associations or NGOs concerned with prisoners' rights – can create a law library within the prison. Having access to legal resources could help some prisoners prepare an appeal. The library should be open to everyone.
- J. Especially if professional legal assistance is not available, prison administrations can encourage prisoners with training and experience to help other prisoners file appeals. This type of prisoner-to-prisoner support programme would be especially helpful in situations where professional legal assistance is not available.
- K. In several countries, prisoners have remained on death row even after the abolishment of the death penalty. These prisoners have not been given a sentence to replace their original one. For these prisoners, legal aid is particularly crucial. Prison administrations need to facilitate contact with lawyers and judges who can help these people receive new sentences that reflect current laws.

(vi) Physical and mental health

- A. Both among the general public as well as inside prison grounds, there is often widespread indifference towards the health needs of death row prisoners. They are not provided adequate care and there is a tendency to neglect their needs because their death seems inevitable. Besides creating severe physical and mental suffering for these inmates, this kind of treatment promotes an overall environment that is degrading to everyone's human dignity, prisoners and staff alike.
- B. Prisoners on death row should be fed adequately with balanced meals at regular meal times. Like all other prisoners, they should be provided recreational activities, including at least one hour of suitable exercise in the open air daily, for the benefit of their mental and physical health. In countries where death row inmates are allowed only limited access to outside exercise, prisoners suffer from depression and anxiety.
- C. Disciplinary punishments for death row inmates should not be more severe than those received by other prisoners. Chains, shackles, fetters, handcuffs and other mechanical restraints should not be used routinely on prisoners facing the death penalty. Punishments should never include the reduction of food or hygiene.
- D. Prison conditions, physical violence, isolation from other human beings, and the long length of time on death row all combine to dehumanise and demean prisoners under sentence of death. Most death row prisoners suffer from serious mental health and behavioural problems as a result of these conditions. In some cases, prisoners sentenced to death feel that they have nothing to lose, and therefore become violent and suffer extreme deprivation because of their deranged behaviour. In other cases, the appalling conditions on death row encourage people to prefer death as easier than life. They 'volunteer' to be executed and drop any appeals.
- E. It is important to note that it is a violation of international standards to execute a person who is legally insane (UN Commission on Human Rights resolution 2005/59, adopted on 20 April 2005). Thus, even if an individual is competent at the time of his conviction and sentencing, he cannot be executed if he subsequently becomes insane. Instead he should be transferred to a mental institution until such time that qualified personnel determine that he is once again legally competent.
- F. Inmates on death row should have access to medical care. There should be an initial medical and psychiatric evaluation when the prisoner first enters death row, with constant monitoring of their physical and mental health afterwards. Prisoners under sentence of death should have the same access to doctors and medical services as other prisoners free of charge. Prisoners should be evaluated for depression on an ongoing basis and threats or attempts to commit suicide should be treated seriously. Especially for prisoners facing the death penalty, the attention and care of visiting psychologists or psychiatrists should be provided, where possible.
- G. In some countries, NGOs and community groups have formed to address the problem of the poor health of prisoners on death row. Prison administrators can help by promoting active partnerships with these groups and allowing them full access to the prison. Such groups can also be helpful for suggesting long-term strategies for improving the health conditions of prisoners on death row.

(vii) Prison staff

- A. Looking after a prisoner who has been sentenced to death is a stressful responsibility, especially once a date for execution has been set. The knowledge that a prisoner is awaiting an execution is likely to have an adverse effect on all around him, including the staff members who care for him. In some countries prison staff are required to carry out executions – which can be a harrowing experience.
- B. Prison staff, including guards and medical staff, may feel psychological repercussions from working on death row and may be in need of support themselves. The prison administration should provide confidential counselling to all staff members who work with death row prisoners.
- C. Staff members who are in charge of prisoners under sentence of death should be carefully selected. They should be given special training

and support. Prison staff members need to be particularly sensitive when looking after prisoners who are under sentence of death. This sensitivity has to be extended first to the prisoner, who is awaiting death, but also to his family and to the family of the victim, if they have any contact with the prison.

(viii) Methods of execution

- A. Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering (Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty, the ECOSOC 1984/50). There should be no needless imposition of pain before death and emotional suffering while awaiting the execution of the sentence. All humiliations and parading of prisoners before execution should be prohibited. Even so, it should be noted that there is no such thing as a painless death - all execution methods are imperfect, and immense suffering is likely to accompany any execution.
- B. Regardless of the method of capital punishment a state imposes, no physician should be required to be an active participant. A physician's only role would be to certify death.
- C. Staff members should take care to notify the prisoner under sentence of death and the families in advance of the exact time and date of execution.

3.5 Issues for discussion

- Bearing in mind the prisoner's right to maintain contact with family and friends, what arrangements are needed to reconcile this right to communicate with the outside world and security requirements for prisons?
- Discuss the issue of segregation of prisoners under sentence of death from other prisoners. Is it necessary, and if so, why? What should be the characteristics of the death row regime?
- Prisoners are often held under sentence of death for many years. What factors involved in this long wait might constitute cruel, inhuman or degrading treatment? How can this be prevented? What

facilities should be provided for prisoners who are awaiting execution?

- Discuss the issues involved in deciding who should be present before and during executions.
- If the death penalty is abolished, how can societies sanction the worst crimes? What do you think is the purpose of sentencing somebody to prison? How might prisons manage long-term sentences if the death penalty is abolished?

3.6 Case studies

- A prisoner under sentence of death tells staff members who are supervising him about new evidence that was not raised at the time of his trial. This evidence might, in the view of prison staff, lead a court to deduce that he was innocent of the crime for which he is to be executed. What steps should the prison staff take?
- Death row prisoners are kept in a separate wing of the prison where there is not adequate space for them. Prisoners complain about the overcrowding and there are clearly tensions between many of the prisoners, some of whom are often agitated. What can be done to improve the situation?
- A prisoner who is under sentence of death stays alone, sitting down in a corner of his cell. He doesn't eat anymore, doesn't speak to anybody except to say that "death is near" and he seems very much afraid. What measures should be taken for this prisoner?
- An NGO has requested permission to establish a death row visitation programme through which volunteers would visit death row inmates once a month. As prison director, how would you respond to this initiative? What precautions, procedures and restrictions would you establish and why?

Guide 4:

Protecting other vulnerable prisoners

4.1 Purpose

To demonstrate that certain groups of prisoners, because of their nature or present situation, should be considered vulnerable; and to show that these groups are entitled to additional services and protections due to their vulnerability.

International standards specify that at a minimum and without exception, all prisoners are entitled to the human rights accorded to other prisoners, including a clean, hygienic living environment, proper food, adequate health care and mental health treatment, and access to rehabilitation programmes. International standards also specify that some prisoners should be considered vulnerable and may also be entitled to the following additional considerations: specialised medical facilities, separation from the general prison population, interpretation services, and greater monitoring by specially-trained prison staff.

Vulnerable prisoners are those who, because of age, gender, ethnicity, health, legal or political status, face an increased risk to their safety, security, or well-being as a result of imprisonment. This group can include juveniles, women and mothers, the mentally ill or developmentally-disabled, foreigners, minorities or indigenous peoples, those under sentence of death, and the elderly, physically disabled or ill persons.

4.2 Objectives

- To identify the groups that are the most vulnerable in detention, and to show that certain groups of prisoners have special needs and circumstances.
- To recognise the ways in which the rights, safety and dignity of these vulnerable prisoners are threatened or denied and what measures can be taken to protect these prisoners.
- To familiarise prison staff with the principle of vulnerable prisoners and the special measure that must be taken to ensure that the rights of these prisoners are protected.
- To show that specific protections for the rights of vulnerable prisoners do not amount to unfair treatment but rather is necessary to prevent discrimination.

- To promote overall tolerance and a reduction of discrimination in prisons.

4.3 Target audience

Mid-level prison officers (warders, head warders, chief warders and assistant superintendents).

4.4 Essential principles

(i) Basic provisions

- A. Certain categories of prisoners are considered vulnerable due to their age, gender, ethnicity, health, legal or political status. These prisoners deserve specific consideration and protection in order to ensure their fair treatment.
- B. The different categories of prisoners shall be kept in separate institutions or parts of institutions, taking into account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment (SMR, Rule 8).
- C. Measures applied under the law and designed solely to protect the rights and special status of women, juveniles, the aged, and sick or handicapped persons shall not be deemed to be discriminatory (Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, Principle 5.2).

(ii) Juveniles

- A. Although the definition of a juvenile varies in different countries, international standards specify that a juvenile (or child) is every person under the age of 18 (article 1 CRC).
- B. The wider specification of protection towards juveniles derives from the acknowledgment of the vulnerability of children and the interest of the state and the society in protecting them. Treatment of juveniles should be consistent with the promotion of the child's sense of dignity and the desirability of the child's reintegration in society (article 40 CRC).
- C. Juveniles are regarded as having less responsibility for their actions and the level of

responsibility attributed them increases as they grow older.

- D. Juveniles who have committed crimes are regarded as being more amenable to change and to learning different ways of behaving than are adults.
- E. The imprisonment of juveniles should be avoided whenever possible, and the younger the person, the greater should be the determination to avoid detention. Young people are in their formative years, learning and developing into adults. If these years are spent in an institution for those who have broken the law, there is a danger that the young person will absorb a criminal identity and grow up expecting to lead a criminal way of life. There is also a grave and persistent danger of abuse, including sexual abuse, exploitation, and health risks for juveniles in detention. Juveniles are unlikely to be able to protect themselves from such abuse. Therefore it is highly questionable whether the advantages of detaining juveniles outweigh the substantial risks if detention.
- F. International standards emphasise that juveniles are not only entitled to all the human rights guaranteed as adults, including the right to be treated with humanity and respect for the inherent dignity of the human person, but also to additional protections which take into account the needs of a person of his or her age. These protections include:
1. Separating juvenile detainees from the adult detainees (article 10.2(b) ICCPR; and SMR, Rule 8(d)). If separate facilities are not feasible, every effort should be made to separate the juvenile section of the prison from the adult section. Experiences around the world have shown that contact with adult prisoners is dangerous for juveniles: juveniles housed with adults are more likely to be raped, beaten and exploited. Juveniles should also be classified by age and housed accordingly to discourage bullying and victimisation.
 2. Arranging trials as quickly as possible (article 37 CRC).
 3. Prohibiting the use of corporal punishment against juveniles (SMR, Rule 31).
 4. Banning capital punishment and life imprisonment without the possibility of parole in cases involving juvenile offenders (article 6(5) ICCPR; and article 37(a) CRC).
 5. Making special efforts to allow juveniles to receive visits from and correspond with family members (articles 9, 10 and 37 CRC; SMR, Rule 37);
 6. Providing juveniles of compulsory school age with education and training (article 28 CRC; and SMR, Rule 71.5).
 7. Not allowing prison officials and staff members to carry weapons in institutions that hold juveniles (Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principles 9 and 16).
- G. The primary objective of a detention place is not punishment but rehabilitation of the juvenile. Care must be taken to prevent long-term social maladjustment. The emphasis of any juvenile facility should be on care, protection, education and vocational skills, and not on confinement. The approach to juvenile rehabilitation should be multidisciplinary, drawing upon the skills of a range of professionals, including teachers, trainers and psychologists. Administrations should offer a full Programme of education, sport, vocational training, recreation and other purposeful activities. Prison staff should create an environment in which the juveniles feel safe - safe from adults, from other juveniles, and from the prison staff. Fear breeds violence and behavioural problems.
- (iii) Women and mothers**
- A. Around the world women make up a small a minority of those imprisoned (around five percent). Since the vast majority of prisoners are men, prison systems tend to be run with men in mind.
 - B. Women are entitled to the equal enjoyment and protection of all human rights in the political, economic, social, cultural, civil and all other fields. Women prisoners must not suffer discrimination and must be protected from all forms of violence or exploitation. However, there are many reasons and circumstances why women have particular needs to must be addressed by prison officials. The Standard Minimum Rules provides fundamental guidance in this regard, as well as the newly adopted UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) adopted by the UN General Assembly in December 2010.

- C. In the coercive, closed prison environment, women are especially vulnerable. Experience has shown that men (both staff and other prisoners) often physically, emotionally and sexually abuse women prisoners. Special safeguards need to be put in place to ensure that women are not harassed or abused in any way. The most important of these is that women should be detained separately from men (SMR, Rule 8). Women should be supervised and searched by female officers and staff (SMR, Rule 53). Adequate attention should be paid to the admission procedures for women and children, due to their particular vulnerability at this time (Bangkok Rules, Rule 2). This should include making adequate arrangements for pregnant women, breastfeeding mothers, and women with caretaking responsibilities for children, taking into account the best interests of the children.
- D. Women face particular problems in prison because of their role in the family. Since women tend to take responsibility for family and children, their imprisonment can pose severe problems for them and their families outside the prison.
- E. Prison facilities should provide adequate facilities for pregnant women, breastfeeding mothers and mothers with children. This should include adequate food, regular exercise, and facilities to allow children to stay with their mothers in prison (Bangkok Rules, Rules 48, 49, 50, 51 and 52).
- F. Because of their small numbers, women are often disadvantaged either by being kept in hastily adapted, makeshift, unsuitable buildings or placed many miles from their home. This makes visits from their families more difficult and more expensive. Arrangements may be made to compensate for this, by allowing families and prisoners' children to make visits lasting a whole day or a whole weekend, for example, and ensuring such visits take place in an environment that allows open conduct between mother and child and is conducive to a positive visiting experience (Bangkok Rules, Rules 26 and 28). Women prisoners shall be allocated to prisons close to their home or place of social responsibility, taking into account their caretaking responsibilities (Bangkok Rules, Rule 4).
- G. The accommodation of women prisoners shall have facilities and materials required to meet women's specific hygiene needs, in particular women involved in cooking and those who are pregnant, breastfeeding or menstruating (Bangkok Rules, Rule 5).
- H. Women who come into prison pregnant or as nursing mothers face great problems. A pregnant or nursing mother should only be sent to prison after all other alternatives have been considered. To bring a baby up in prison is far from ideal, even if the prison conditions are hygienic and suitable. To separate a small baby from its mother is a serious decision to take. International instruments are clear that pregnant women should receive as high a level of pre-natal and post-natal care and treatment as is accorded in the outside society. Whenever practical, women prisoners should be taken to outside hospitals to give birth (SMR, Rule 23.1). When nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers (SMR, Rule 23.2).
- I. Women prisoners are often denied access to the support and services that are provided to male offenders, especially education and training. They often find themselves restricted to work such as sewing or cleaning, childcare or other limited vocational opportunities. Women prisoners should have access to facilities which are equal to those available to men.
- J. Gender-specific health-care services at least equivalent to those available in the community shall be provided to women prisoners (Bangkok Rules, Rule 10). These should cover conditions related to sexually transmitted diseases including HIV prevention, treatment, care and support; post traumatic stress disorder; reproductive health issues; drug dependency, taking into account prior victimisation and the special needs of pregnant women and women with children; sexual abuse and other forms of violence (Bangkok Rules, Rules 6, 7, 13, 14, 15, 16 and 17).
- K. Prison officials should put in place appropriate gender and age-specific measures to meet the needs of juvenile female prisoners (Bangkok Rules, Rules 36, 37, 38 and 39).

- L. Women prisoners face special problems on release from prison. The stigma which faces many prisoners on release is likely to be experienced even more acutely by women. Prison authorities can benefit greatly from involving outside organisations in helping women on release from prison.
- M. The death penalty shall not be carried out on pregnant women (article 6 ICCPR).
- C. Mental illness involves different forms of disorders which impair the capacity to think or act properly. Serious mental illness is associated with substantial disorder of thought or mood which significantly impairs judgment, behaviour, or the capacity to recognise reality or cope with ordinary demands of life and is manifested by substantial pain or disability. The most common forms of mental illness are anxiety disorders, depressive disorders, schizophrenia and suicidal tendencies.

(iv) Mentally ill or developmentally disabled

- A. In many prison systems a significant proportion of prisoners suffer from some form of mental health issues. Many prisoners suffer from psychological problems prior to their incarceration, while others develop disorders during incarceration in response to the stress of the prison environment, specifically those sentenced to the death penalty or life or long-term imprisonment. These problems are exacerbated by the fact that most prisons do not offer appropriate treatments and programmes for mental health issues.
- B. It is essential for prison officers to have a sufficient understanding of mental health issues in order to enable them to identify problems and difficulties as they arise. Prison personnel have a crucial role to play in the early detection of prisoners suffering from mental health issues. They should be able to distinguish between prisoners who are *mentally ill* and those who are *developmentally disabled*. For both categories of prisoners, the prison environment is usually extremely stressful. The prison situation can aggravate a mental illness that is already present or even cause a mental illness to arise while a prisoner is detained. Similarly, developmentally disabled persons are likely to face abuse and mistreatment while in prison that can make their difficulties more pronounced. Accordingly, the behaviour of prison staff and the prison setting itself are important factors in the mental health of prisoners, and can be modified to reduce the stress and anxiety prison creates. For both these groups of prisoners, prison staff have an important obligation to protect them from abuse and create the best possible environment for coping with their mental impairments and to promote rehabilitation.
- D. Developmentally disabled persons have a sub-average general intellectual functioning and do not have the same understanding or awareness of their environment as others. Often, prison staff treats this category of people in the same manner as those with mental illnesses, whereas the problems and the solution are completely different. The developmentally disabled have a low mental capacity which makes daily life tasks difficult. Mental illness, on the other hand, involves a disorder of thought or mood which impairs judgment, behaviour, or the capacity to recognise reality and cope with the demands of ordinary life.
- E. For prisoners' sentenced to death, it is a violation of international standards to execute a person who is legally insane (Resolution 2005/59, adopted on 20 April 2005, the UN Commission on Human Rights). Thus, even if an individual is competent at the time of his conviction and sentencing, he cannot be executed if he subsequently becomes insane. Instead he should be transferred to a mental institution until such time that qualified personnel determine that he is once again legally competent.
- F. At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality (SMR, Rule 22.1).
- G. Prison is not the right place for people who are mentally ill. Persons who are found to be insane shall be removed to mental institutions as soon as possible (SMR, Rule 82.1). While they remain in prison they will require special care. Such prisoners shall be placed under the special supervision of a medical officer. The medical or psychiatric service of the penal institutions shall

provide for the psychiatric treatment of all other prisoners who are in need of such treatment (SMR, Rules 82.2, 82.3, and 82.4).

- H. It is particularly important in the case of prisoners who are receiving psychiatric treatment that arrangements are made for their continuing care after they are released (SMR, Rule 83).

(v) Foreigners

- A. For foreigners, imprisonment often results in disproportionately severe punishment. In addition to the deprivation of their liberty, they suffer particularly acute isolation from being detained in a country other than their own. The people, language, customs, and religion are often unknown to them, and they are being kept a great distance from home. Their ability to be in contact with the outside world is severely restricted, and they are likely to have difficulty contacting their families. They also often have trouble accessing legal assistance.
- B. Specific measures should be taken to alleviate difficulties that are likely to arise. These include accommodating language and religious requirements; preventing abuse and fear; ensuring access to alternatives to imprisonment, legal assistance, and basic supplies; encouraging contact with families, diplomatic representation (SMR, Rule 38.1), and fellow foreign nationals to alleviate problems of isolation; and meeting the needs of asylum seekers and refugees.
- C. Discrimination based on the grounds of race, sex, language, ethnicity, or nation of origin is prohibited but religious beliefs and moral precepts of the group to which the prisoner belongs shall be respected (SMR, Rules 6.1 and 6.2).

(vi) Minorities and indigenous people

- A. Although the specific problems encountered by minorities and indigenous prisoners vary depending on individual circumstances, it is common for these prisoners to face difficulties because of differences in language, culture, and customs. Such differences can severely restrict their communication with other prisoners or staff, and may limit their ability to participate in the social and training activities of the majority

prison population. Furthermore, because of these differences, they are often targets for discrimination and persecution by prison staff and other prisoners. Other times they are imprisoned far from home. For all of these reasons, isolation, depression, and anxiety is common among these prisoners.

- B. Special measures need to be taken to protect and support these groups in order to ensure their fair treatment. Everyone has the right to freedom of thought, conscience, and religion (article 18 UDHR). Persons from ethnic, religious or linguistic minorities have the right to their own culture, religion and language. Prison authorities need to take active steps to create an environment of tolerance and non-discrimination in their institutions. These can include setting non-discrimination policies, recruiting staff from minority groups, training staff in cross-cultural issues, working closely with minority communities, and encouraging minorities and indigenous.

(vii) Elderly, ill or physically disabled prisoners

- A. The detention of elderly, ill or physically disabled prisoners gives rise to a variety of concerns. Because these prisoners face physical limitations, they are susceptible to abuse, discrimination, and exploitation in the tough prison environment. Their disabilities or limitations may affect the extent to which they are able to follow orders and follow normal prison procedures. Sometimes elderly, ill or physically disabled prisoners are denied exercise and activity due to the difficulty of making appropriate arrangements and accommodations. In other cases, their medical or psychological problems are left untreated.
- B. Prison authorities need to consider carefully whether it is really necessary to hold elderly, ill or physically disabled people in prison. When these people are imprisoned, special care should be given to ensure that their physical and mental health needs are met, specifically issues related to memory loss which may affect any appeal processes pending. These prisoners will require extra protection from prison staff to ensure that they are not taken advantage of by fellow prisoners. Working to promote an atmosphere of mutual respect and tolerance will help these prisoners live in the safe and healthy environment they deserve.

4.5 Issues for discussion

- Vulnerable prisoners are more susceptible to persecution by their fellow inmates. These abuses are often difficult to prevent and to control. With whom does the responsibility for the protection of vulnerable prisoners rest?
 - Why should people - such as indigenous people, juveniles, and women with young children - who are likely to experience increased suffering in prison be given special consideration for non-custodial sentences? Why might imprisonment be especially difficult for them compared to other prisoners?
 - How do the needs of the vulnerable groups listed above differ from those of the general prison population? What measures can prison authorities take to protect vulnerable prisoners from being abused by other prisoners and staff?
 - In your country, what are the differences (if any) in the treatment of vulnerable groups of prisoners compared to the general prison population? What are the specific measures that are implemented in your prisons?
- impairment. How can the prison director ensure that these prisoners receive the medical and psychological care they need? What issues should the prison director take into consideration when dealing with these prisoners?
- In your correctional institution, a number of foreign prisoners from different countries are held. Their cultural identities may involve differences in appearance, language, behaviour, food, religions, beliefs and practices. Discuss the risks that such prisoners face and give three measures the prison management may take to ensure their rights are protected.
 - In your country, members of minority groups are over-represented in prisons serving death penalty and life or long-term imprisonment. This creates a negative association for members of these minority groups with the criminal justice system, making it difficult to hire minority staff. What steps could be taken to promote recruitment? What else can the prison management do to promote better relations?

4.6 Case studies

- You are in charge of a large adult male prison with one unit for 50 convicted juveniles aged 16-18. Many of these juveniles are drug offenders or ex-drug addicts. At present, the juveniles are looked after by the same staff and are treated the same as the adult prisoners. You have been asked to design a programme to provide more appropriate treatment for the juveniles in the juvenile wing. How would you go about doing this?
- Elizabeth, a 25-year-old inmate in your prison, has been sentenced to life imprisonment for murdering her husband. She is eight months pregnant. What kinds of issues should the prison staff consider when dealing with Elizabeth?
- In the community in which the prison is situated there is a shortage of psychiatrists and of good healthcare for the mentally ill. The prison has a number of death penalty and life imprisonment prisoners who have some form of mental

Guide 5:

Building a rehabilitation-oriented penal culture

5.1 Purpose

Historically, the purpose of prisons has been to punish those who break the law. However, as rates of recidivism and crime continue to climb, prison regimes are beginning to acknowledge the pressing need to establish effective education, rehabilitation and reintegration programmes in prisons, and better prepare prisoners, especially those who have been serving a life or long-term prison-sentence, for re-entry into society.

Recognition of the recidivism problem has also led to a new focus on sentence planning programmes. Sentence planning is a continuum of treatment and programming that requires a high level of cooperation between prison officials, medical staff, members of the community, and the prisoner himself. In its most comprehensive state, sentence planning begins the moment a prisoner enters the prison. It does not end until after a released prisoner has been reintegrated into the community.

5.2 Learning objectives

- To explain how sentence planning can contribute to an effective offender rehabilitation programme and to describe the difference approaches to sentence planning in practice today.
- To identify the primary international standards that guide the establishment of prison education, rehabilitation and reintegration programmes.
- To be able to describe the characteristics of effective prison education, rehabilitation and reintegration programmes.
- To identify some steps that could be taken to establish new or strengthen existing education, rehabilitation and reintegration programmes to better prepare prisoners for their release from prison.

5.3 Target audience

Mid-level prison officers (warders, head warders, chief warders and assistant superintendents).

5.4 Essential principles

(i) Basic provisions

- A. The main aim of the prison authorities in their treatment of prisoners should be to encourage personal reformation and social rehabilitation (article 10(3) ICCPR; SMR, Rule 61), and to help prisoners to lead law-abiding and self-supporting lives after their release (SMR, Rule 58).
- B. Prisoners are sent to prison to be punished and deprived of their liberty for a period of time. The vast majority of them will return to the community once they have completed their sentences. It is important that prisoners be properly prepared for their return to society. This will make it less likely that they will commit further crimes, but will lead a law-abiding and self-supporting life (SMR, Rules 58 and 60.2).
- C. From the beginning of a prisoner's sentence consideration shall be given to his future after release, and he shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interests of his family and his own social rehabilitation (SMR, Rule 80).
- D. Education, work, vocational guidance and training, cultural and religious activities shall be provided and encouraged, including access to an adequate library (SMR, Rules 40, 41, 42, 59, 66.1, 71, 75.2, 77 and 78).
- E. The treatment of prisoners should emphasise not their exclusion from the community, but their continuing part in it. As such, the outside community should be involved as much as possible in educational, cultural and other reintegration and rehabilitation activities in prison (SMR, Rule 61).

(ii) Sentence planning: "Intake and Assessment"

- A. When a prisoner first enters the prison system, he meets with a multidisciplinary intake and assessment team that can include a variety of well-trained prison staff and outside personnel, including those responsible for healthcare, education, rehabilitations, psychological counselling and probation. These individuals

work with the director of the sentence planning programme, an intake coordinator, and the prisoner himself to assess the prisoner's needs and lay the foundation for a case plan. Possible assessment categories include the following:

- Education level.
- Work skills and experience.
- Health status.
- Vulnerability.
- Psychological status.
- Addictions.
- Criminal and behavioural history.

- B. Qualified members of the assessment team will also consider the prisoner's overall attitude and willingness to change.

(iii) Sentence planning: "Creation of a Case Plan"

- A. Following the initial assessment, the team creates a comprehensive case plan that is tailored to the specific needs of the prisoner. The case plan creates both a short-term and long-term schedule of programmes and established goals designed to facilitate the prisoner's rehabilitation and reintegration into society. Examples of possible rehabilitation and reintegration programmes include:

- Educational programmes.
- Vocational training programmes.
- Victim awareness programmes.
- Anger management programmes.
- Alcohol and drug treatment programmes.
- Adaption to prison life programmes.
- Counselling.
- Life skills courses.
- Community interaction programmes.

(iv) Sentence planning: "Implementation of the Case Plan"

- A. Once the assessment team determines that a prisoner should participate in a particular programme, the team should work with the prisoner to establish a participation schedule and set realistic goals. This schedule and the stated goals should be clearly spelled out in a written contract. The prisoner should review and sign the contract.
- B. A prisoner's goals should be tailored to his particular situation. For example, a team might

determine that a prisoner who showed no remorse for his actions would benefit from weekly participation in a victim awareness programme that involved one-on-one contact with a crime victim (though not necessarily the victim associated with the prisoner's particular crime). A possible goal for this prisoner would be to articulate a genuine understanding of how his actions affected other people. Other goals could include completing a specified number of educational sessions within a period of time, reaching a certain level of literacy, actively participating in alcohol or drug treatment planning programming, and successfully cooperating in a group situation.

- C. An essential part of the goal-setting structure should be an established incentive scheme. Every time a prisoner achieves a targeted goal he should receive a benefit – typically in the form of an earned privilege. Prisoners should be told at the beginning of the programme what benefits they will receive if they meet their targets. Examples of earned privileges include receiving additional visitation time with family and friends, being allowed to engage in additional exercises, receiving extra telephone time, being allowed to keep additional possessions in the cells, being allowed to wear street clothes, and receiving early release.
- D. However, failure to meet targeted goals should not result in punishment and deprivation of existing privileges. It should instead lead to a re-evaluation of what is realistic for that particular prisoner. At all times it should be remembered that sentence planning is for the prisoner's benefit and improvement. It is not intended to serve as a method of forcing prisoners to conform to the prison regime.

(v) Sentence planning: "Monitoring and Review of the Case Plan"

- A. A case management officer is responsible for overseeing a prisoner's progress vis à vis the case plan. Each prisoner should be assigned a case management officer at the same time that the case plan is created. A case management officer oversees the prisoner's progress by 1) conducting regular reviews of the prisoner's progress, general behaviour and attitude; and 2) providing on-going support. To ensure continuity and stability,

it is preferable if a prisoner remains with the same case management officer throughout his incarceration.

- B. The review process is intended to be comprehensive, requiring the case management officer to observe the prisoner while the prisoner participates in programme activities and to meet regularly with the prisoner and all programme administrators who are involved with the prisoners. The case management officer should also seek input from prison staff, including the guards who come into contact with the prisoner on a daily basis. In particular, prison staff can provide valuable information about the prisoner's general attitude and behaviour – both while he is alone in his cell and while he is interacting with other prisoners.
- C. Meeting with the prisoner and programme administrators allows the case management officer to keep track of the prisoner's progress and attitude and to modify the case plan targets accordingly. The frequency of meetings will depend on the needs of the prisoner: high-risk prisoners with poor attitudes might require weekly meetings; biweekly or monthly meetings might be sufficient for more stable prisoners.
- D. The case management officer must also ensure that the prisoner is receiving an adequate amount of support and encouragement. It is unavoidable that even the most motivated prisoner will face setbacks and discouragement. At other times, a prisoner might lose interest in participating in the programmes. It is the responsibility of the case management officer to help the prisoner overcome these types of obstacles and re-evaluate the case plan. Case management officers can provide encouragement and refer the prisoners to other sources of support, including individual, group or peer counselling and mentor programmes.

(vi) Sentence planning: "Resolution of Case Plan"

- A. Pre-release: As a prisoner nears the end of his sentence, the focus of sentence planning programmes shifts from rehabilitation to reintegration. The case management officer will work together with the prisoner and the programme administrators to revise the case plan to conclude the rehabilitation programmes and to

emphasise the reintegration needs of the prisoner. For example, in addition to in-prison programming, such as life skills courses, the prisoner who is about to be released might benefit from increased contact with members of the community and family members. Additional contact might be accomplished via work furlough, community volunteer opportunities, and supervised temporary release programmes. As with all programmes that are included in a prisoner's case plan, the goal of the prisoner will be to attain specific targets.

- B. The pre-release period is also the time when the case management team helps the prisoner establish a relationship with his parole or probation officer and members of the community with whom he will be involved after his release. For example, the team might encourage a prisoner with a history of drug problems to meet with a representative from a local drug counselling organisation. The representative could provide the prisoner with information about the services and support that are provided by the organisation. With regard to the parole / probation officer, the prisoner could find out what will be expected of him following his release and what types of support will be available.
- C. Following the prisoner's release, the sentence planning does not automatically end. There should be a follow-up period during which the case management team continues to coordinate the prisoner's transition in conjunction with community representatives. This helps provide the prisoner with continuity and security.

(vii) Sentence planning programmes for special groups

- A. As stated above, each prisoner's sentence planning programme should be tailored to that particular prisoner. There is no one-size-fits-all sentence plan. This is particularly true with regard to certain groups of prisoners, including female, juvenile, minority and mentally-ill prisoners, who might have special needs that deviate from the norm. For example, female prisoners with children might benefit from programming that focuses on their grief at being separated from their children, their shame at failing their family, their anxiety about their children's future, and their fear of losing custody of their children to the state or others.

- B. Other special groups that deserve particular attention are long-term prisoners, including those who are serving life sentences or have been sentenced to death. Long-term prisoners are frequently neglected because their release date is either far in the future or – as in the case with prisoners sentenced to death – nonexistent. Accordingly, these prisoners are often either completely ineligible for sentence planning programmes, or ineligible until just before their release date – which could be ten, twenty or thirty years into their sentence.
- C. In order to facilitate the sentence planning of these special groups of prisoners, it is advisable to have a staff member who is responsible for creating and overseeing programmes for each group. That person can work with the case management teams to ensure that the needs of these prisoners are being adequately addressed.

(viii) Characteristics of effective prison education, rehabilitation and reintegration programmes

- A. In general, effective prison education, rehabilitation and reintegration programmes have four basic characteristics:
1. Incentive-based structure: inmates receive privileges and awards, such as sentence reductions, parole consideration and preferential prison employment for completing courses and reaching identified goals.
 2. Learner-centred: the programmes recognise that inmates are adults with different learning styles and skills who come from different cultural backgrounds. The programme capitalises on the prisoners' strengths.
 3. Community-oriented: community volunteers and organisations, including religious organisations, can play a crucial role by providing prisoners with ongoing contact with the community. Volunteers also reduce costs.
 4. Comprehensive and on-going: the programme recognises that released prisoners often need a "bridge" between prison life and life following release. In these programmes, released prisoners have the option of enrolling (or are sometimes required to enrol) in intermediary programmes that reinforce the skills they acquired in prison.

(ix) Education programmes

- A. Education in prisons should be aimed at developing the whole person, taking account of prisoners' social, economic and cultural background (SMR, Rule 59).
- B. Education shall be compulsory for young prisoners and illiterate prisoners. The prison authorities should give this aspect of education a high priority (SMR, Rule 77.1).
- C. The majority of prisoners lack basic educational skills such as being able to read at an adult level. If not remedied, this lack of education can lead to a vicious cycle of recidivism and a failure to reintegrate. Lack of education can have a significant effect on the prisoners' ability to find employment once they are released; former prisoners who are unable to find meaningful work are more likely to re-offend and end up back in prison. Providing education in prisons should thus be a priority for prison administrators and staff. A successful education programme will include the following basic components: 1) an initial assessment; 2) courses addressing a variety of subjects and skills; and 3) adequate facilities and materials.
- D. The education level of each prisoner should be evaluated at the time that he first enters the prison. The educational assessment should be part of the regular intake procedures and should include an objective evaluation of the level of each prisoner's reading, writing and mathematical skills, as well as a determination of the last year of formal schooling by the prisoner. Educational assessment can also be incorporated into sentence management.
- E. Prison education programmes can and should focus on a wide variety of subjects and skills. Basic courses should teach core educational skills, such as reading, writing, calculating, listening, speaking and problem-solving. More advanced courses, including courses equivalent to those found in a university setting, can also be taught. Different levels of courses need to be available to meet the needs of all prisoners and to promote rehabilitation. Educational programmes within the prison setting should be equivalent or superior to those provided in the community.

If national education standards have been developed, the prison programmes should meet or exceed those standards.

- F. To some extent, the location of educational courses will depend on the resources and available space within the prison. But by thinking creatively prisons can make use of numerous options. For example, if there is no classroom space within the prison, classes can be held outside (when the weather is not oppressive). Prisoners may be enrolled in correspondence courses in which they communicate with a community-based educational institution via mail or through computers. If the prison lacks sufficient resources to hire outside teachers, community representatives or members of NGOs could be recruited as volunteer teachers. The prison could also arrange to have well-educated inmates trained as teachers.
- G. To obtain necessary educational materials, such as reading and writing supplies and books, prisons with limited resources should look to the community, as well as to NGOs and international organisations. One possibility for obtaining access to books is to establish a cooperative relationship with local libraries.

(x) Work in prisons and vocational training programmes

- A. All sentenced prisoners who are medically fit shall be required to work. As far as possible, this work should give them skills that would enable them to earn an honest living after their release (SMR, Rule 71). Examples of possible jobs within a prison system include prison maintenance, food services and grounds-keeping. Prisoners might also work for either a prison-based business or a private company to produce goods and services for sale to the community. In these situations, prison authorities must make sure that the prisoners are not being exploited or used to undercut local wages.
- B. Prisoners shall be paid for the work they do (SMR, Rule 76.1) and prisoners should be allowed to spend part of their earnings, to send a portion of their earnings to their families, and to save a portion (SMR, Rules 76.2 and 76.3).

- C. National legislation regarding health and safety at work shall apply in prison in the same way as it does in the community (SMR, Rule 74.1).
- D. Vocational training shall be provided, especially for young prisoners (SMR, Rule 71.5).
- E. The goal of vocational training is to teach skills and productive work habits that prisoners will be able to utilise in the outside community following their release. In addition to imparting useful skills, vocational training programmes can reduce government costs and alleviate some problems associated with idleness and boredom.
- F. To be effective, vocational training programmes need to do more than simply keep prisoners occupied while they are in prison. Rather, they must prepare prisoners for skilled employment that will enable them to earn a liveable wage in the community. Having marketable skills decreases the possibility that the prisoners will once again turned to crime to support themselves or their families after they are released.
- G. Because the ultimate goal of vocational training programmes is to promote the prisoner's successful reintegration into society, contact with members of the community can be extremely beneficial. Some successful programmes have created a tiered approach to training: prisoners begin by learning basic skills, then they graduate to working in correctional industries, and finally, they enter a work furlough programme and find a job in the community.
- H. Examples of prison-based vocational training include courses in computer skills, electronics, automobile repair, printing, carpentry, horticulture, telephone repair, catering and computer skills.
- I. In a work furlough programme, prisoners leave the prison during the day to work in the community and learn marketable skills. As with correctional industries, prison authorities must ensure that prisoners who participate in a work furlough programme work in a safe environment and are not financially exploited.

(xi) Treatment programmes

- A. Many prisoners come to prison with a variety of dependency, psychological and emotional problems that undermine their efforts to adjust to life in prison and reintegrate into society following their release. To promote rehabilitation and prevent recidivism, prisons must establish effective programmes that detect and treat any physical or mental illnesses which may hamper a prisoner's rehabilitation (SMR, Rule 62). The fulfilment of this principle requires individualisation of treatment (SMR, Rule 63.1).
- B. The problems that are commonly faced by prisoners include:
1. Alcohol and drug dependency.
 2. Depression and psychological illness.
 3. Infectious disease (such as Tuberculosis [TB], HIV/AIDS and viral hepatitis).

(xii) Reintegration training programmes and regimes

- A. The purpose of reintegration programmes and regimes is to promote a successful transition from a prison environment to the community and family environment. These programmes provide both social and emotional assistance and help prisoners develop skills for an effective transition. Examples of readjustment and reintegration programmes and regimes include:
1. Providing lectures and classes.
 2. Increasing the prisoners' personal responsibility.
 3. Promoting family visitation.
 4. Utilising community correctional centres / halfway houses.
 5. Implementing post-release programmes.

(xiii) Cultural and recreational programmes

- A. Cultural and recreational programmes promote rehabilitation and reintegration by developing prisoners' social skills and helping them maintain a positive self-image. These programmes can also serve as a safety valve by alleviating boredom and reducing tension and stress within the prison environment. Examples of cultural and recreational programmes that are commonly found in prisons include organised team sports, physical exercise, arts and music programmes and leisure reading.

- B. The community can be a valuable resource for organising and staffing cultural and recreational programmes in prison. Local schools and community groups can be recruited to provide concerts, art shows / lessons, plays etc. This helps prisoners establish and maintain ties with the community at large.

(xiv) Religious instruction and counselling programmes

- A. Religion has been shown to serve a number of important benefits within the prison environment. These benefits include: 1) providing answers to the prisoners questions about life; 2) providing rules to adhere to, which makes inmate management easier; 3) helping with socialisation by bringing together like-minded inmates for prayers, religious discussions, and other faith-related activities; and 4) providing additional opportunities to link the prison setting to the outside community and enhance reintegration efforts. In fact, a number of recent studies suggest that religious counselling and instruction can reduce prison violence and decrease recidivism.
- B. In implementing religious programming in prison, prison administrators should consider the following basic principles that are enumerated by the international standards:
1. Prisoners have the right to observe the tenets of their religion and to have access to a qualified representative of their religion or a minister of that religion (SMR, Rules 41 and 42). The prison staff should respect reasonable religious tenets and obligations, including those relating to diet, clothing and prayer.
 2. Participation in religious-based programmes must be voluntary. No prisoner shall be required to participate in any programme that violates his or her religious beliefs.

5.5 Issues for discussion

- What are some of the reasons for implementing sentence planning in a prison? What are some obstacles to implementation?
- What are some examples of incentives or earned privileges that could be incorporated into a

sentence-planning programme?

- What are some of the benefits that long-term prisoners could receive from participating in sentence planning programmes? At what point should they be allowed to participate in these programmes? What types of programmes should be included in sentence planning programmes for life or long-term prisoners?
- How can you justify providing better opportunities in areas such as education, vocational training and employment counselling to prisoners than to the general population?
- What is the appropriate role of prisons dealing with drug and alcohol abuse and dependency?
- What types of prison programmes would benefit from the involvement of community organisations or cultural and religious groups? What steps can be taken to encourage these groups to become involved? What guidelines should be established for their participation?

5.6 Case studies

- You are a case management officer for a prison. One of the prisoners under your supervision is an individual who was convicted of selling drugs. He was sentenced to 15 years in prison. When the prisoner first entered the prison he was very enthusiastic about participating in the sentence-planning programme. However, during the past couple of months, his attitude has taken a turn for the worse. You have discovered he is not attending his educational classes or his drug treatment programme. He has also refused to see his family when they have visited the prison. What are your responsibilities in this type of situation? What should be your first steps?
- You are the case management officer for a long-term prisoner who has been serving a 30-year sentence for murder. The prisoner, who entered the prison when he was eighteen years old, is scheduled to be released in six months. He has been participating in a sentence-planning programme that has included training to become an electrician. He has told you that he is

concerned about re-entering society after being in prison for so long. He has not been in contact with any family members since he entered the prison. What types of programming and/or counselling would this prisoner benefit from at this point? What types of support can the prison provide for the prisoner after he is released?

- A local community group asks the director of the prison if they can work with the prisoners to prepare a play. They suggest that members of the local community can then be invited into the prison to see the play. How should the director respond to this suggestion?
- You are in charge of a prison that is in a remote location. It is difficult to find teachers from the community to teach in the prison. A number of prisoners, who are well educated, ask if they can organise educational programmes for other prisoners. What would be your reaction? What are the various considerations? How would you go about setting up such a scheme?
- You are in charge of a prison where there is a shortage of work for the prisoners. A local businessman comes to you and says he wishes to set up a workshop in the prison. He will provide all the necessary machinery. He needs a commitment that all prisoners will work for 40 hours each week. He promises to give you 10 percent of the profits. How should you respond? What are the factors you need to consider?

For more information on PRI's work on the abolition of the death penalty and alternative sanctions that respect international human rights standards please contact:

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