



Penal Reform International

40 rue du Château d'eau

75010 Paris. France

Tel : 33 1 48 03 90 01

Fax : 33 1 48 03 90 20

priparis@penalreform.org

www.penalreform.org



INTERNATIONAL TRAINING PROGRAMME

Made possible with the generous support of the European Union.
Any part of this publication may be freely reproduced provided the source is acknowledged.

Human Rights and Vulnerable Prisoners

Introduction —

Workshops —

Resources —

International Standards on Good Prison Management

Introduction to Vulnerable Prisoners

Juveniles

Women and Mothers

The Mentally Ill and Developmentally Disabled in Prison

Foreigners

Minorities and Indigenous People

Prisoners under Death Sentence



This project is funded by the European Union



Table of Contents

Introduction	3
Developing a Worldwide Network of Trainers	3
Experiential Learning and Penal Reform	4
Using This Training Manual	5
The Topic of Human Rights and Vulnerable Prisoners	6
Credits & Acknowledgements	8
Workshop	11
1. Respecting Human Rights and the Dignity of Prisoners	12
2. Gaps in Compliance with International Standards	16
3. Rights of Women & Mothers as Vulnerable Prisoners	21
Resources	27
Topic I-A.1: International Standards on Good Prison Management	27
Topic I-B.1: Introduction to Vulnerable Prisoners	39
Topic I-B.2: Vulnerable Prisoners: Juveniles	49
Topic I-B.3: Vulnerable Prisoners: Women and Mothers	65
Topic I-B.4: Vulnerable Prisoners:	
The Mentally Ill and Developmentally Disabled in Prison	81
Topic I-B.5: Vulnerable Prisoners: Foreigners	93
Topic I-B.6: Vulnerable Prisoners: Minorities and Indigenous People	107
Topic I-B.7: Vulnerable Prisoners: Prisoners Under Death Sentence	121
PRI's Training of Trainers Programme	136



INTERNATIONAL TRAINING PROGRAMME



Made possible with the generous support of the European Union.
Any part of this publication may be freely reproduced provided the source is acknowledged.

Training Manual Introduction

Developing a Worldwide Network of Trainers

Developing a Worldwide Network of Trainers

In 2000, PRI embarked on an ambitious effort to establish an international network of skilled trainers prepared to address the ever-increasing demand for training and skill development needed for the penal reforms that have taken hold in the criminal justice sectors of countries around the globe.

The innovative three-year programme funded by the European Union, has established training teams in six of PRI's seven regions worldwide¹, with Francophone Africa to be added during the fall of 2003.

Nearly one hundred trainers are working in teams to deliver training to members of the judiciary, prison departments, community service and probation officers, and partner non-governmental organisations from Bolivia to Moldova and Malawi to Kazakhstan. While many of these trainers have carried out training within existing programmes, several have used their training skills to develop new programmes.

Some training was carried out through existing training schools and institutes, some was carried out through specially scheduled training workshops, and still other training used such innovative approaches as mobile training teams to bring shorter, more targeted programmes directly to those for whom the training was intended at their place of work.

During the course of the training programme, PRI has prepared support and reference materials in the form of topical "resource kits." These kits address more than thirty-five different penal reform issues in English, Spanish, Russian, and Arabic. They have drawn extensively on the prior work done by others, including the UN Office of the High Commissioner of Human Rights², UNICEF, the ICRC, and Amnesty International. In many cases, these resource kits have been adapted and reformulated into local materials for use in national level programmes and translated into numerous other languages. These are the resource kits that

1. Russia and Central Asia, East and Central Europe, the Arab World, English-Speaking and Francophone Africa, Latin America, and South Asia

2. UNOHCHR Human Rights and Prison, a manual on human rights training for prison officials, Geneva, 2003

now, following extensive use by trainers, are being published in the form of this and subsequent manuals.

Finally the programme has aimed to prepare three to five expert trainers in each region where the programme has been active. In an effort to meet the ever-growing need for training support, these trainers have personally assumed increasing responsibility for conduct-

ing training of trainers workshops. Accordingly, these skilled trainers have assumed greater responsibilities within their own regions, as well as becoming involved in training activities in other regions and thereby promoting the exchange of techniques, innovations, and best practices between the diverse parts of the globe in which PRI has been active.

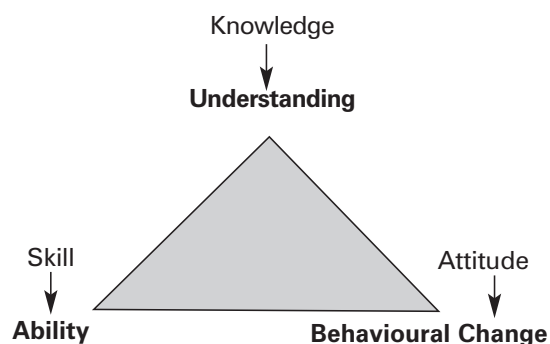
Experiential Learning and Penal Reform

While legal reform is necessary in many countries, our experience in the course of our work has led us to believe that the greatest obstacles to penal reform are often not the shortcomings of laws, policies, rules, or the availability of financial resources. Instead penal systems and those who work within them experience difficulty in implementing these rules fairly and in utilising resources effectively. Therefore, our training efforts have focused on the introduction of new knowledge, changing behaviours and developing skills so that those involved in penal systems can carry out their roles in an effective and humane manner.

In nearly all cases, participants came to the training programmes with considerable experience, expertise, and practical knowledge from their work as judges and magistrates, probation and community service officers, prison and police officers or members of non-governmental organisations. We have sought to bring together these diverse groups of participants to work collaboratively across institutional and disciplinary lines that too often separate them. To take maximum advantage of these wide-ranging experiences, the participants

were frequently combined into diverse training teams and groups.

Triangular Foundation of Learning



The challenges of training in this field of penal reform have centred on the need to match new skills and approaches with the strong commitment to reform already present in many of the penal systems around the globe.

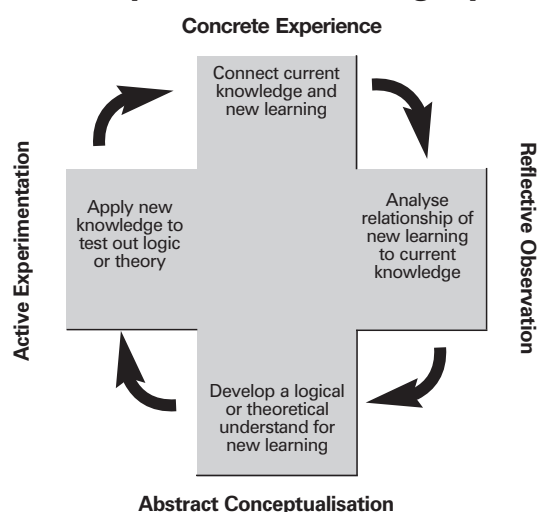
As a result, we have placed a priority on teamwork and the importance of group dynamics. We have also looked to the work of two pioneers in adult learning. The first is Malcom Knowles who identified several important characteristics of adult learners that have been stressed throughout this programme:

- Adults are **autonomous** and **self-directed**. Their ideas, perspectives, and experiences must play an important role in the learning process.
- Adults have accumulated a foundation of **life experiences and knowledge** to which new learning is added.
- Adults are **goal-oriented** and appreciate new educational programmes to help them attain their goals.
- Adults are **relevancy-oriented** so clearly establishing the reason for learning something substantially accelerates the learning process.
- Adults are **practical**, so focusing on the aspects learning that are most useful to them enhances learning.

The second pioneer is Herbert Kolb who identified the four stages of experiential learning in adult learning which been at the core of this programme and its approach to training.

You will see that Kolb's work and the experiential learning model that is derived from it are embedded in the training workshop designs and materials that are included in this manual. There is an emphasis on experience-based learning, active participation of learners, and training activities that link what is done in a training setting to the real world outside.

The Experiential Learning Cycle



Using This Training Manual

This manual is the first of a series covering a wide range of penal reform issues. It is designed to provide trainers within PRI's network and others trained in participatory training and experience-based learning with reference materials to assist them in conducting high-quality training workshops. The core of this manual is a series of resource kits on topics related to good prison management and human rights. Specifically, it focuses on international standards for the treatment of prisoners and the special needs of six categories of vulnerable prisoners. Forthcoming manuals in this series

will cover additional of penal reform themes.

Meanwhile, the full body of resource kits are available on the "training" section of PRI's web site (www.penalreform.org.)

The **resource kits** are designed to present the basic knowledge and information needed to conduct a training workshop on a given topic in an easily accessible format. Each kit includes a section on **essential principles** that relates the body of international standards to the topic. This is followed by an **implementation** section which examines each issue in more detail, identifies selected "best practices" where they are

available, and provides citations (often web sites) to more extensive reference material. Finally, each kit includes a series of **discussion questions** and **case studies** that can be adapted for use in training activities.

Each of these resource kits has been field-tested in one or more regions and reviewed by a team of experts in the field. However, we frequently receive new ideas, examples, reference materials, and suggestions that are used to update and improve these kits. Since it is not practical to print new editions as frequently as these changes occur, updated versions of resource kits are posted on the "training" section of PRI's web site.

Finally, much of the research for these resource kits was done via the Internet. While this provided us with current and complete examples, it also contributed to a disproportionate amount of information from Australia/New Zealand,

Western Europe, and North America. We have worked hard to overcome this somewhat unbalanced approach by consulting PRI's and our partners' contacts and by selecting experts from all around the world to review the kits and add relevant information about other regions. However, you will still see an imbalance reflected in this material that will continue to be addressed in subsequent versions of these kits. The resource kits are supplemented by additional series of sample workshop designs. These designs are not intended to serve as scripts for training workshops but instead to facilitate and stimulate the design of training that address the needs of the particular audience for whom the workshop is being presented. They are intended to be adapted and modified based on thorough data gathering and preparation that precedes every workshop.

The Topic of Human Rights and Vulnerable Prisoners

Of the more than thirty-five training topics that have been addressed in the course of this programme, the most frequently called for are those on international standards for the treatment of prisoners and issues related to the treatment of vulnerable prisoners. This has been equally true in every part of the world in which this programme has been implemented regardless of access—or lack of access—to financial resources.

While this focus on prisoner treatment reflects the centrality of this issue and its role as a cornerstone of a lasting penal reform effort, it also reflects the genuine commitment to promoting human rights and human dignity on the part of

those with whom we have worked in both governmental as well as non-governmental organisations. It also highlights the need to increase the professionalism of those involved in criminal justice, especially those who deal directly with prisoners, and reflects an understanding that respect for human rights is an essential feature of a penal system that places reform and rehabilitation above retribution and punitive treatment.

The scope of the topics dealt within the manual is vast and the subject of extensive writing, research, and analysis that could stretch far beyond the pages of this publication. However, we have sought to draw out the essential

issues on each topic and to present the most current information and thinking so as to promote a clear understanding of these critical issues. In our view, they are the foundation upon which much of the broader work of penal reform is built.

Consequently, we have chosen these topics to be featured in the first training manual. It is our hope that the information contained in the following pages provides the information needed for better understanding and complements the training activities that promote good prison management and human rights.

Hans H. Wahl, Director

Robert Ghosn, Programme Coordinator

International Training Programme

Paris, France

October 2003

Credits & Acknowledgements

This publication is dedicated to penal reformers worldwide that devote their personal and professional energies to make human rights a reality, often in very difficult situations.

The completion of this first penal reform training manual has been made possible by the wisdom, vision, and hard work of many of those within Penal Reform International, the partners (both governmental and non-governmental), and in particular, the network of trainers with whom we have worked over these past years. Their commitment to reform and their ability to inspire others, their innovative approaches to presenting information and building skills among participants in hundreds of training workshops, seminars and meetings around the world have contributed to the material included in these pages.

This publication also reflects the tireless research, writing, editing, and reviews by experts carried out by an equally dedicated and committed group of volunteers, interns, and staff who have supported this effort. These include: Jason Foster, Kirsten Harbers, Emilie Lefort, Jeff Vize, Anne-Aurore Bertrand, Katherine Haver, Tory Messina, and Anne-Julie Deniel.

This training manual also draws extensively from other publications that we encourage trainers to use for additional information and references. Among those we would like to highlight are:

- *Human Rights and Prison. A Manual on Human Rights Training for Prison Officials*, Office of the High Commissioner for Human Rights, United Nations, 2000.
- *The Treatment of Prisoners Under International Law*, Nigel S. Rodley, Oxford University Press, 1999.
- *A Human Rights Approach to Prison Management*, Andrew Coyle, International Centre for Prison Studies, Kings College London, 2002.
- *Prison Policy Development. International Instrument*, International Centre for Criminal Law Reform and Criminal Justice Policy, First Edition, 2001.
- Amnesty International training manual for prison staff, for police
- *Monitoring places of detention: a practical guide for NGOs*, APT / ODIHR, 2002.

We would like to express our appreciation to some of those who played a critical role in delivering the training of trainers workshops included in this programme: Mr. Riazuddin Ahmed, India; Mr. Andrei Allkhevdov, Russian Federation; Dr. José Ignacio Donoso, Ecuador; Ms. Lamia Grar, Tunisia, Ms. Asma Khader, Jordan; Dr. Natalya Khutorskaya, Russian Federation; Ms. Stella Orisakwe, Nigeria; Dr. Bidur Osti, Nepal; Mr. Stephen Riechi, Kenya; and Dr. Maritza Segura Villalva, Ecuador.

Penal Reform International would like to express its sincere gratitude to the European Union for its support of the publication of this manual as well as the International Training Programme as a whole.

Finally, special appreciation goes to the much missed Fiona Hunter, and to Audrey Pascaud and Marie-Dominique Parent, for the vision that inspired this programme and insight into how training materials should be used to support a worldwide penal reform training initiative.

INTERNATIONAL TRAINING PROGRAMME



Made possible with the generous support of the European Union.
Any part of this publication may be freely reproduced provided the source is acknowledged.

Sample Training Workshop Designs

The following workshop designs are presented as samples. Trainers are encouraged to use these designs as guides from which to develop their own workshops, based on the individual needs and objectives of the participants for whom the training is being delivered. The three workshops below vary in length and approach. They are structured to reflect the experiential learning model used within this programme, with an introduction, a foundation, a series of learning events, and culminating with a closing. No breaks are indicated in the sample designs, but trainers should feel free to insert them based on the time of day, the overall schedule, and needs of the group. Most designs can be adapted to address the general topic of good prison management or addressed toward a single vulnerable group of prisoners.

The preceding resource kits serve as the primary reference materials for these workshops. However, it is always essential to supplement

these kits with additional information. National and local legislation and prison rules should be collected and reviewed beforehand to determine how they compare with international standards.



Training of Trainers, Konobeyevo
Russian Federation - June 2001.

This process of comparison is particularly useful in helping participants understand the meaning and implications of international human rights standards.

I. Respecting Human Rights and the Dignity of Prisoners

Purpose:

To train prison staff on the principles of human rights and human dignity that are applicable to prisoners and in the prison setting.

Objectives:

- 1- To familiarise prison staff with the principles of human rights and human dignity and to establish an understanding of the importance of protecting and respecting these rights.
- 2- To identify some of the most common and serious violations of human rights and human dignity in the prison setting.
- 3- 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.

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

Time Required: 2 hours.

Reference and Resources Materials:

- 1- Resource Kit I-A.1 *International Standards on Good Prison Management*.

- 2- Universal Declaration of Human Rights and other relevant international standards
- 3- Making Standards Work (PRI, 2001).
- 4- Relevant domestic prison rules and legislation.

Training Materials:

- 1- Flip charts, overhead transparencies, markers
- 2- Scripts and other materials for role play
- 3- Other relevant materials
- 4- Written workshop evaluation forms

Preparation and Follow Up:

It should be clarified with the Prison Superintendent beforehand that one of the outcomes of this workshop will be a list of specific recommendations to improve human rights in the prison. The participants will develop the list in the course of the workshop and it will be submitted for his/her approval when the workshop is completed.

The workshop should be carried out on a regular (quarterly) basis and regular reports should be submitted which indicate progress and achievements, problems and constraints, and recommendations for further improvements.

Workshop Agenda/Outline:

1- Introduction of workshop, agenda, objectives, and participants, including an explanation and discussion of why the

topic to international human rights standards is relevant (10-15 min).

2- Foundation:

Case study (20-30 min).

The facilitator dims the light of the room

and asks participants to imagine themselves as an Assistant Superintendent of Prisons who is posted in a city several hours

drive away from his family. Late one evening he receives a telephone call from his family informing him that his 18-year-old son has been caught committing a theft and has been sent to jail by the local court. The background and details of the case can be elaborated based on the locality and background of the participants themselves so that the story becomes realistic and personal.

On a pad of paper, the participants are asked to answer the following questions:

- a- As the father or mother, what are your first feelings and emotions upon hearing this news?
- b- What immediate steps would you take if this was your son?

The participants are asked to share their responses to the two questions. These responses are often quite emotional, with many participants indicating that they would do everything they could to safeguard the life of their son. After some discussion of the problem and the dangers that the boy might face on his arrest and stay in prison, the facilitators point out that

what they sought to do for their son is no different than what most parents would seek to do.



Women's Health Workshop
Argentina - March 2003.

Once the discussion has run its course, the facilitator asks the participants how their responses would be different if this situation had happened to their daughter rather than their son.

This case study helps participants understand the real fears that accompany imprisonment and that these fears are often based on some degree of reality.

3- Learning Events (45-60 min):

Brainstorming: Participants are asked to brainstorm a list of what they believe are human rights. This activity should continue for approximately 5-10 minutes without any critical comments from the facilitators. It will elicit different, sometimes very diverse understandings of the Universal Declaration of Human Rights and international human rights standards.

When this is finished, the following question should be asked: Which of these human rights are nullified by a prison sentence? Which human rights should be preserved for those who have not been convicted of an offence?

Short Lecture: The brainstorming is followed by a brief explanation of the Universal Declaration of Human Rights

(UDHR), focusing primarily on the relevant articles-numbers 5, 6, 7, 8, 10, and 11. Copies of the UDHR should be distributed to participants and the background and importance of the Declaration should be

explained. References should be made to national legislation as appropriate. Any questions that arise can be answered through a brief discussion in order to ensure a general understanding.

Brainstorming - The Rules:

While brainstorming is highly effective in bringing new and creative ideas to an activity, it is essential that it be well managed and follows agreed upon rules.

- Write down all ideas as they are stated.
- Freewheeling and contributing seemingly unrelated ideas is encouraged.
- Absolutely NO evaluation, critique, or discussion of any items suggested for the list.
- Necessary questions for clarification can be asked but be VERY cautious about slipping into discussion or commenting on ideas.
- Hitch-hiking on each other's ideas is allowed and encouraged.
- Everyone is encouraged to participate but individuals may pass.

Small Group Activity 1: Participants are divided up into groups of 3 to 6 and each is given one (or two if necessary) of the relevant articles (5, 6, 7, 8, 10, and 11) to study and discuss in more detail. Each group is asked to come up with responses to the following questions:

- a- How could these articles be violated in the prison?
- b- What preventive measures could be taken in prison to ensure that the article is implemented effectively?

Each group's responses are shared and discussed in the full group until the workshop's second objective is met.



Good Prison Management Workshop,
Nigeria - June 2003.

Small Group Activity 2: Using the same groups, participants are asked to come up with at least one concrete measure that could be taken in their prisons to ensure that these international standards are upheld and that overall compliance with human rights standards is improved. Each group's responses are shared, recorded on the flip chart, and discussed with the full group.

The group discusses whether these actions and recommendations are practical and realistic. It should be clarified that these recommendations will be reported back to the Prison Superintendent, and the list should be added to and modified the full group agrees to the list in its entirety. The Prison Superintendent will have the opportunity to make modifications to the final list developed by this group.



Advanced Training of Trainers,
Kenya - May 2003.

When to use Small Groups or "Break Out Groups":

- To increase participant involvement, interest and enthusiasm
- To increase ownership and investment in the group product
- To increase the output of a group (e.g. ideas, solutions, brainstorming)
- To alter the group dynamics that emerge in full group (conflict, dominance, etc.)
- To involve reluctant participants (resistant, shy, etc.)
- When working with large groups (increase "air time" for participants)
- Best for the following tasks:
 - Analysis or synthesis of issues or situation
 - Problem solving
 - Planning

4- Closing (15 min):

The facilitator summarises the conclusions of the group and the importance of ensuring human rights, not just for the sons of prison officers but for everyone's sons and daughters.

It should be made clear that the prison service will follow-up on the implementation of these recommendations by requesting that each trained prison staff member complete a performa every 2-3 months in order to

report on the progress and problems with respect to the human rights situation in their prison.

The participants are thanked and sufficient time should be allowed for any final questions before passing out a written workshop evaluation.

II. Gaps in Compliance with International Standards

Purpose:

To promote understanding among prison officers of the importance of applying international standards, and in particular the UN Standard Minimum Rules for the Treatment of Prisoners (SMR)) in managing prisons and to identify where gaps exist between current practices and those dictated by international standards.

Objectives:

- 1- To familiarise prison staff with principles of international standards of good prison management, in particular the UN Standard Minimum Rules, and to communicate the overall importance of promoting and respecting human rights.
- 2- To identify gaps between these international standards and current practices.
- 3- To identify specific actions and recommendations that can be taken in order to bring current practices into compliance with these international standards.

Audience:

Upper and Mid-level prison officers (warders, head warders, chief warders, assistant and deputy superintendents and superintendents) and others in positions of responsibility in prison management.

Time Required: full day.

Reference and Resources Materials:

- 1- Resource Kit I-A.1 *International Standards on Good Prison Management*
- 2- Resource kits related to the specific category of vulnerable prisoner being addressed in this workshop (Resource Kits I-B.1 through I-B.7).

- 3- Universal Declaration of Human Rights and other relevant international standards pertaining to specific vulnerable group being addressed.
- 4- Relevant domestic prison rules and legislation.
- 5- Preparatory analysis identifying the human rights issues to be addressed in this workshop.

Training Materials:

- 1- Flip charts, overhead transparencies, markers.
- 2- Scripts and other materials for role play.
- 3- Other relevant materials.
- 4- Written workshop evaluation forms.

Preparation and Follow Up:

As noted above, this workshop is suitable for either a general workshop on good prison management or one aimed at improving the treatment of a specific category of vulnerable prisoners.

This workshop requires preparatory analysis to identify the key human rights or management



Advanced Training of Trainers,
Peru - July 2003.

issues facing the particular prison or prison system at hand. Based on this analysis, three to four priority topics are identified. The choice of these topics should be reviewed with the prison administration prior to the workshop in order to gain their input and ensure their understanding of the principles and working methods of the workshop itself.

It should be clarified with the Prison Superintendent or administration that one of

the outcomes of this workshop will be a list of specific recommendations to improve human rights in the prison. The participants will develop the list in the course of the workshop and it will be submitted for his/her approval when the workshop is completed.

This workshop can be repeated with the same group of participants repeatedly to examine additional human rights and good prison management issues that should be addressed.

Workshop Agenda/Outline:

1- Introduction of workshop, agenda, objectives, participants, and their expectations. It should be explained in detail how the topic

of good prison management is closely related to the important issue of international human rights standards in prisons. (45 min)

2- Foundation: (1.5 - 2 hrs):

Facilitated Discussion:

What are Human Rights (10 min)

The facilitator poses the following question to the participants: What are human rights? (Modified to *human rights for juveniles, human rights for women, human rights for mentally ill, etc. for specific groups of vulnerable prisoners.*) The facilitator notes the group's responses on the flip chart.

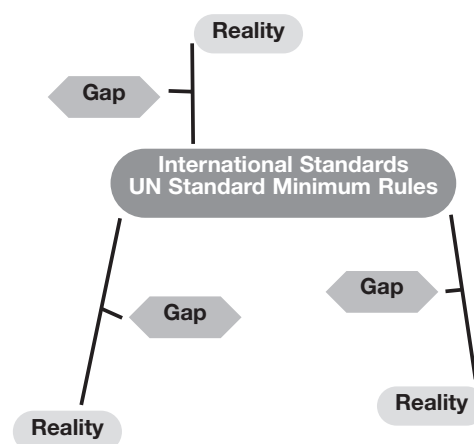
Short lecture: Introduction to International and Domestic Standards (20-30 min)

The facilitator or resource person presents a brief, interactive lecture on the history and background of the development of international standards, the UDHR, and the continually emerging system of human rights instruments and standards (see Resource Kit I-A.1). The development of regional and national human rights bodies is discussed

and those guidelines related to the treatment of specific vulnerable categories of prisoners are given special attention.

Handouts and well-prepared visual aides should be used to assist participants in understanding the complex concepts being presented.

Gap Analysis Comparing reality to SMR



Selection of Key Issues: (20-30 min) At the end of the lecture, a list should be presented of the priority issues as identified through the preparatory work leading up to this workshop (i.e., *healthcare and sanitation, contact with the outside world, and vocational training and rehabilitation*). Participants should be asked to modify or refine the list as necessary until there is agreement that the list addresses three or four of the priority issues in bringing the prison into compliance with international standards. The priority issues should be clarified, refined, and elaborated as needed. (For workshops focusing on a specific vulnerable group, issues relevant to that group should be selected.)

3- Learning Events: (3.5 - 4 hrs.)

Role Plays: The Gap Between Standards and Current Reality (90 min)

When all groups have completed their preparation, each group takes a turn presenting their two role-plays, first one about the current situation and then the one about how the prison would be if the prison service was in compliance with international standards.

Following each set of presentations, the audience is asked to identify the gaps they have observed between the two role-plays. The facilitator records these observations on a flip chart and then asks the presenting group members for any observations that may have been overlooked.

Small Group Work 1:

International Standards Study (30-45 min)

Participants are divided into three or four small groups with each group assigned to one of the priority issues. Each group is given the relevant international and domestic standards to study and examine carefully. They are then asked to compare the standard to the current reality in the prison or prison service in which they work.

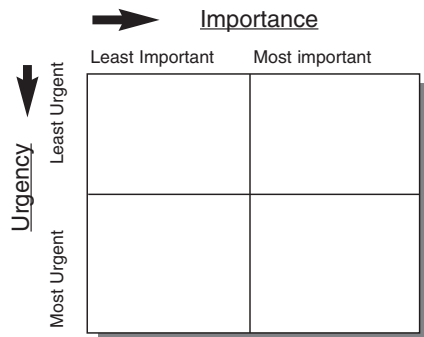
Based on this information, each group is asked to prepare two brief role plays (3-4 min each). One role play should depict an aspect of current prison practices relevant to the issues assigned to the group. Another role play should depict how that same practice would be carried out if international and domestic standards were being complied with.

Priority Setting: Once all of the groups have presented their role-plays and all the lists on the flip chart have been reviewed, priorities should be identified within each category based on the following criteria (30 min):

- 1- What changes can realistically be accomplished by the participants in this group or by those whom they can influence?
- 2- What changes are most important?
- 3- What changes are most urgent?

The facilitator should work with the full group of participants to reach consensus in identifying two to three priority problems in each group's international standards focus area. It should be stressed that this training is aimed at the process of closing the gaps

Priority Setting Matrix Importance and Urgency



and that it can be repeated as other problems emerge as priorities.

Short Lecture: Applying Systematic Problem Solving Methodology (15 min)

The systematic problem solving model (clarify the problem, determine the cause, identify alternative solutions, select a solution, develop a plan, implement, and evaluate) should be introduced. It should be discussed how this model can be used to address problems. It should be pointed out that in the planning stage of solving a problem, it is important to be clear about who will do what, when they will do it, and what resources will be needed.

Small Group Activity-2: Action Planning (45-60 min)

Using the groups from the role-play activity, each group is asked to select one problem from those identified as priorities above. If this is a real application, each group is asked to develop an action plan spelling out how and when a solution can be implemented, by whom, and what resources are needed. If this is a hypothetical situation, the groups do not need to be taken past the point of selecting solutions to overcome the problem.

Each group should prepare its work for presentation to the full group.

Report Out: Once all of the groups have completed their planning, each group should be asked to present its recommendations. These recommendations will include either possible solutions or, if an actual situation, action plans of how these solutions can be implemented. The full group should offer its feedback of the plans being presented and augment them with additional ideas or suggestions (30-40 min):

Brainstorming - Variations :

- 1- Use an icebreaker, visioning or other creativity motivating exercise to start off the brainstorming.
- 2- Ask participants to jot down three-five ideas on a note card prior to taking items for the list verbally.
- 3) Cardstorming: Pass out three to five index cards or slips of paper to participants and ask them to write each brainstorming idea on the card. When everyone is finished, tape them onto a wall or large board for everyone to review and organise the ideas themselves.

A great list but now what: Brainstorming lists should be synthesised and used as a part of the group's next activity. Don't leave creative thinking, unattended on a flip chart!

- 4- Closing** (30 min): The conclusions of the group are summarised and the importance of compliance with international human rights standards and good prison management is restated. .

It should be noted that the prison service will follow-up on the implementation of these recommendations by forwarding them to the administration. In most cases the officers involved in this workshop will be involved in the implementation itself.

Participants should be thanked and time



Advanced Training of Trainers,
Kenya - May 2003.

should be allowed for any final questions before passing out a written workshop evaluation.

Small Group Activities - Preparation and Implementation:

- Be sure that the group's task is clearly defined.
- Specify the expected output and its form (oral report, flip chart, role play).
- Check for understanding before breaking into groups.
- Assure that each group has the resources, information and access to expertise needed to carry out its task.
- Provide clear time limits for the group to do its work.
- If you ask the group to generate large amounts of information be sure they analyse or synthesise it prior to reporting back.
- Monitor groups carefully as they do their work. Help, guide, and advise as needed.
- Allow time for groups to report their work back to full group.

Due to the specialised nature of this workshop, the training team may find that it is helpful to call in resource people such as social workers, psychologists, or specialists on problems of women and children in jail to assist in with the workshop.

Special attention should be taken to pass on the recommendations developed during this workshop to the appropriate prison supervisors and administrators. Efforts to implement them should be noted and monitored to determine the results of such reforms.

Workshop Agenda/Outline:

1- Introduction of workshop, agenda, objectives, participants, and their expectations. The topic of good prison management, the importance of international human rights standards, and the necessity of ensuring the well-being of women and mothers in detention are explained in detail. (15-20 min).

2- Foundation: (50-60 min).

Brainstorming: Problem Overview (10-15 min).

The facilitator points out that women are one of the most vulnerable groups among all those in prison due to their relatively small numbers, their special needs they often bring with them into prison, and their overall role in the society.

The participants are asked to think back on their experiences working in prison and to generate a list of how they have seen these problems surface in the prisons in which they work. The group (both male and female participants) is asked to think of 3-4 concrete illustrations of these problems. The facilitator assures that everyone participates by going around the room in sequence or keeping track of those who have spoken so that no one is left out, being careful not to let individual contributions spark discussion or evaluation at this point, but simply generating a list on the flip chart.

Synthesis: Problem Overview (15-20 min).

Once the brainstorming is complete (10-12 minutes), the facilitator points out some common elements among the experiences that have been raised. Specific problems faced by women prisoners can be grouped into several categories. Categories may be presented as follows h(these may be modified so as to be reasonably consistent with the problems raised by the participants and appropriate to the number of groups into which the participants will be divided):

- The extremely vulnerable nature of women in prison (including safety, security, problems of abuse and isolation).
- The role of women within a largely male institution (including health, hygiene, social and emotional issues).
- Women's role and relationship to their children.
- Special problems of obtaining fair trials.
- Problems of rehabilitation and reintegration.



Training of Trainers,
Bangladesh - December 2002.

Brief Lecture: Problems of Women and Mothers in Prison (30 min).

Using a resource person with expertise on issues of women in prison or drawing upon the information contained in Resource Kit I-B.3 *Vulnerable Prisoners Women and*

Mothers, a brief lecture is delivered to prepare the participants for the following activities. The lecture is kept short and participants are given an opportunity for questions and discussion afterwards.

3- **Learning Events:** (60-75 min).

Small Group Work: Analysis of Problems (30-45 min).

The participants are divided into three or more groups. Each group is assigned to one of the problem categories discussed above. Each group is asked to:

a- Identify specific problems they have observed or heard about related to their assigned category.

b- Identify the cause or causes of these problems.

c- Recommend steps that could be implemented in their prison (or those with which they are familiar) to minimise or reduce the negative effect of this problem.

Groups should prepare to report out to the full group in plenary session (preferably on flip charts or transparencies).



Small Groups Activities - The Risks and Cautions

- Trainer gives up control to the sub-group.
- Risk that groups lack information, experience or knowledge needed to complete the task.
- It takes time to report out and process the product of sub-groups.
- Group dynamic issues arising in sub-groups.

Report Out: Analysis and Discussion (30 min)

Each group reports out its findings and recommendations to the full group. The full group contributes by adding to and refining the recommendations until there is a consensus on the points to be put forth. If an expert resource person is involved in the workshop, her or his comments are also welcomed.

When complete, an opportunity is given for any additional points that might have been overlooked in the structured sections of the workshop and the full group reviews the final recommendations.

The final report and recommendations are forwarded to the appropriate prison superintendent or other staff person.

4- **Closing** (20-30 min):

The key points raised in the workshop are summarised, especially the importance of assuring the human rights and dignity of women and children in prison. The findings and recommendations prepared by the group are also summarised.

It should be made clear that these recommendations are to be forwarded to the

appropriate prison authority and that follow-up should be conducted in a timely manner to report on progress and problems with respect to improving human rights in their prison.

The participants are thanked and enough time is allowed for any final questions before passing out a written workshop evaluation.

Ice Breakers:

Icebreakers and energizers can be used in a wide variety of points in a training program. They serve the purpose of enhancing creativity in the group, breaking down barriers, facilitating introductions, focusing on a task or shifting from one task to another. They are excellent ways to start the day or bring a group back from lunch or a break.

- Icebreakers and energizers should be fun.
- Select an activity appropriate to the group and not too threatening.
- Introduce the activity clearly and clarify what you want the group to do.
- Draw relevant learnings from the activity back to the tasks before the group point out any lessons/insights that might have taken place.
- Participants have the option of not taking part or passing. Pay special note to activities likely to be threatening or risky to participants.
- Physical activity can be very effective where appropriate.



INTERNATIONAL TRAINING PROGRAMME



Made possible with the generous support of the European Union.
Any part of this publication may be freely reproduced provided the source is acknowledged.

International Standards on Good Prison Management

I. Introduction

Purpose: To explain and present international standards relating to good prison practice and the human rights of prisoners and to promote the widespread use of these standards to make prisons better managed, more humane places.

Definition: *Human rights* are rights that one has simply because one is human. Human rights are *universal*: they are held by all persons, everywhere, without exception. Human rights are also equal: because everyone is human, everyone has human rights. And finally human rights are *inalienable*: one cannot lose one's rights just as one cannot stop being human.

States in every region of the world have signed agreements confirming basic human rights. These *international standards* are rules created by broad international coalitions which reflect what is generally accepted as being good principle and practice in a variety of fields. Some international standards relate to the treatment of prisoners and good prison practice.

Background: The idea of human rights has profound social and political consequences. Human rights, held by every person as a protection against the state and society, provide a framework for political organization and a standard of legitimacy throughout the world. Even in societies where human rights are well respected, there must be constant pressure on governments and institutions to strive to better meet these standards.

International standards are an important tool for making prisons better places. They can make prisons question their practices and come up with improved, more efficient, more humane ways to manage their institutions. The aim of this Kit is to promote the implementation of international human rights standards in prisons worldwide¹.

1. For a complete description of international human rights standards relevant to the work of prison officials, see *Human Rights and Prisons: A Manual on Human Rights Training for Prison Officials*, United Nations Office of the High Commissioner for Human Rights, Professional Training Series No.9, Geneva, 2003.

II. Objectives

- A. To define the concept of human rights;
- B. 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;
- C. To present an overview of what international standards say about good prison practice; and
- D. To promote the implementation of international standards in making prisons better managed, more efficient, more humane places.

III. Essential Principles

- A. All human beings are born free and equal in dignity and rights (*Universal Declaration on Human Rights [UDHR], Preamble and Article 1*).
- B. 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*).
- C. Prisons and prison officials have a particularly important role in promoting and protecting human rights in their daily work.
- D. Human rights are a legitimate subject for international law and for domestic and international scrutiny (*Charter of the United Nations [Charter], Preamble, Article 1 and Article 55.c*).
- E. Prison officials are obliged to know, and to apply, international standards on human rights; and
- F. Widespread respect for human rights leads necessarily to better, more efficiently managed prisons.

IV. Implementation

A. Introduction

1. Human Rights in Prison

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.

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. Some people in prison

are serving sentences. These people are in prison as punishment. Other people are in prison awaiting trial or other decisions, such as decisions about political asylum or immigration status. These people are in prison not as punishment, but as a precaution. They constitute a special category of detained people, and have special rights in accordance with their status as a non-convicted persons. They have yet to be

found guilty of an offence and are therefore innocent in the eyes of the law. They need to be given access to their families, lawyers, and other outside resources (see Section B, Item 7.f below).

For both groups, the conditions of imprisonment should not be used as an additional punishment. Prison should consist of a loss of liberty, *but nothing more*.

2. Background of International Standards

'Human Rights' is a modern term but it invokes a very old idea. This is the idea that certain rights and freedoms are fundamental to human existence. It is the idea that there exists an inherent worth and dignity in every person. This dignity can never be taken away. It is neither a privilege nor a gift given by a ruler, government, or another person with more power.

The widespread abuses of human rights in the 1930s and the atrocities of World War II in Europe and elsewhere led to an international effort to join together in preventing such things from happening again. In 1945, the United Nations (UN) was created "to promote and encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion." Human rights were no longer the sole province of each individual nation. All member countries of the

United Nations agreed to take measures to safeguard human rights.

The United Nations has fostered the creation of a vast array of human rights instruments relevant to the administration of justice, the rights of prisoners, and the use of non-custodial measures. Together these instruments form the basis for the international standards that apply to all prisoners and detained individuals.

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.

3. Global Sources of Human Rights Standards

International norms and standards have various legal effects depending on their sources. Binding obligations are set out in covenants, conventions, treaties, and protocols while morally persuasive universal guidance is offered

through various declarations, minimum rules, and bodies of principles. The basic sources for international human rights standards can be categorised as follows:

a. Charter of the United Nations

b. Universal Declaration of Human Rights

c. Treaties: Covenants and Conventions

From the point of view of prisons and prison staff, among the most important of these are:

- *International Covenant on Economic, Social, and Cultural Rights;*
- *International Covenant on Civil and Political Rights;*
- *The Convention against Torture and Other Cruel, Inhuman and Degrading Punishment;*
- *International Convention on the Elimination of Racial Discrimination;*
- *Convention on the Elimination of All Forms of Discrimination against Women; and*
- *Convention on the Rights of the Child.*

d. Principles, Minimum Rules, and Declarations

From the point of view of prisons and prison staff, among the most important of these are:

- *Standard Minimum Rules for the Treatment of Prisoners;*

- *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;*

- *Basic Principles for the Treatment of Prisoners;*

- *United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines);*

- *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules);*

- *United Nations Rules for the Protection of Juveniles Deprived of their Liberty;*

- *Declaration on the Elimination of Violence against Women;*

- *United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules);*

- *Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment; and*

- *Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty.*



Additional Resources:

More information is available in English at:

Human Rights and Prisons: A Manual on Human Rights Training for Prison Officials, United Nations Office of the High Commissioner for Human Rights, Professional Training Series No.9, Geneva, 2003.

More information is available in English and French at:

<http://www.unhchr.ch/> (Office of the High Commissioner for Human Rights)

<http://www.echr.coe.int/> (European Court of Human Rights)

More information is available in English and Spanish at:

http://www.iidh.ed.cr/en_index.htm (Inter-American Human Rights Institute)

More information is available in Arabic, English, and French at:

<http://aohr.org/> (The Arab Organization of Human Rights)

<http://www.aihr.org.tn/> (Arab Institute for Human Rights, Tunisia)

More information is available in Arabic, English, and French at:

<http://aohr.org/> (The Arab Organization of Human Rights)

<http://www.aihr.org.tn/> (Arab Institute for Human Rights, Tunisia)

More information is available in Arabic, English, French, Japanese, Russian, and Spanish at:

<http://www.un.org/> (United Nations)

<http://www1.umn.edu/humanrts/> (University of Minnesota Human Rights Library)

4. Regional Sources of Human Rights Standards

This Kit is based primarily on standards developed at the international level. Yet regional human rights instruments and arrangements also exist in Europe, the Americas and Africa. No such arrangements exist yet for the Asian region. These are as follows:

a. **The European system under the Council of Europe**

b. **The Inter-American system under the Organization of American States**

c. **The African system under the African Union**

Together these instruments offer a comprehensive and detailed international legal framework for ensuring respect for human rights within the context of criminal justice.

**Additional Resources:****More information is available in English and French at:**

<http://www.coe.int/> (Council of Europe)

<http://www.africa-union.org/> (Africa Union)

<http://www.achpr.org/> (African Commission on Human and Peoples' Rights)

More information is available in English and Spanish at:

<http://www.cidh.oas.org/> (Inter-American Commission on Human Rights)

<http://www.corteidh.or.cr/> (Inter-American Court of Human Rights)

More information is available in English, French, Portuguese, and Spanish at:

<http://www.oas.org/> (Organization of American States)

B. A Summary of International Standards on Good Prison Practice

All human beings are born free and equal in dignity and rights. Human rights derive from the inherent dignity of the human person. All per-

sons deprived of their liberty shall be treated at all times with humanity and with respect for the inherent dignity of the human person.

1. Torture and Ill Treatment

No one shall be subjected to torture or ill treatment.

- **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.
- **Ill-treatment** is defined as other acts of cruel, inhuman, or degrading treatment or punishment which do not amount to torture.

- Law enforcement officials shall be **fully informed** and educated about the prohibition of torture and ill treatment. Any **statement** made as a result of torture shall not be invoked as evidence in any proceedings.
- 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**.

2. Accommodations

All persons deprived of their liberty have the right to an adequate standard of living, including adequate food, drinking water, accommodation, clothing, and bedding.

- Accommodations shall **clean and sanitary** and provide adequate cubic contents of air, floor space, lighting, heating, and ventilation.
- Prisoners have the right to **wholesome, adequate** food at the usual hours and with drinking water available whenever needed.

- **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.
- Prisoners shall be provided with a **separate bed** and **clean bedding**, with facilities for keeping bedding clean. Prisoners required to share sleeping accommodation shall be carefully selected and supervised at night.

3. Health Care

The enjoyment of the highest attainable standard of physical and mental health is a human right.

- 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.

- Health personnel shall **not give their permission** for any acts which may affect adversely the health of prisoners.
- All prisoners should be given a **medical examination** as soon as they have been admitted to a prison or place of detention.
- Any necessary medical treatment **at the level generally available** within the country should be provided **free of charge**.
- All prisoners shall have at least **one hour's daily exercise** in the open air if the weather permits.
- Prisoners suffering from **mental illnesses** shall be treated in specialized institutions under medical management, or treated and supervised by prison medical services as appropriate.

4. Security and Control

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.

- 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**.
- All **cruel, inhuman or degrading punishments** are completely prohibited, including corporal punishment or confinement in a dark cell.
- 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;
 - when strictly necessary to prevent the escape of a person presenting a grave threat to life.
- **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.
- 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.
- It is prohibited to **employ prisoners to discipline** other prisoners.

5. Work, Education, Religion, and Rehabilitation

The treatment of prisoners should encourage personal reformations and social rehabilitation. The purpose of the prison regime should be to help prisoners to lead law-abiding and self-supporting lives after release.

- 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 possi-

ble, work should **give them skills** so they can earn an honest living after their release. Vocational training shall be provided, especially for young prisoners. National legislation regarding **health and safety** at work shall apply in prison in the same way as it does in the community.

- **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.
- All prisoners have the right to observe the tenets of their **religion** and to have access to a minister of that religion.

- 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.
- 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. Prisoners shall be kept informed of important items of news.

6. Complaints, Inspections, and Access to Justice

Anyone whose rights and freedoms have been violated has the right to an effective remedy, determined by a competent court.

- 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.
- 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 a complaint is rejected or not responded to in a timely manner, the complainant shall be entitled to bring it before a **judicial authority**.

- **Prisons inspections**, by qualified and experienced inspectors from a competent authority separate from the prison administration, shall take place regularly.

7. Vulnerable Prisoners and Prisoners Deserving Special Treatment

All persons are equal before the law and are entitled, without discrimination, to equal protection of the law. 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.

a. Juveniles in Prison

Juveniles are defined as persons under the age of eighteen. Juveniles in detention are considered vulnerable due their comparative weak-

ness and the long-term damage that can result from incarceration.

b. Women and Mothers

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.

c. Mentally Ill

Unless they pose a substantial and demonstrable threat to the community, mentally ill prisoners should not be in prison. 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.

d. Foreigners and Minorities

Due to their differences from the majority of the community, their special needs, and, in many instances, their isolation and communication diffi-

culties, these groups constitute a category of vulnerable prisoners who deserve special consideration and protection.

e. Prisoners under Sentence of Death

Prisoners under sentence of death constitute a category of vulnerable prisoners who merit special consideration and protection due to the nature of their sentence.

f. Remand Prisoners

Everyone charged with a penal offence must be presumed innocent until proved guilty. Pre-trial detention shall be used as a means of last resort. Because they are innocent in the eyes of the law, remand prisoners constitute a category of prisoners deserving special treatment, including access to legal representation and greater access to the outside world. Untried prisoners have the right to trial within a reasonable time, or to be released.

8. Non-Custodial Measures

The use of non-custodial measures should be recommended and encouraged. Sentencing authorities should take into consideration the rehabilitative needs of the offender, the protection of society and the interests of the victim, who should be consulted whenever appropriate.

- Where possible consideration should be given to addressing conflict **in the community** without resorting to the courts.
- Non-custodial measures should be used in accordance with the principle of **minimum intervention**.

- Any form of release from an institution to a non-custodial programme shall be considered at the **earliest possible** stage.
- The criminal justice system should provide a **wide range** of non-custodial measures, from pre-trial to post-sentencing dispositions in order to avoid the unnecessary use of imprisonment.
- The number and types of non-custodial measures should be determined in such a way, by law, so that **consistent sentencing** remains possible.

9. Administration of Prisons and Prison Staff

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.

- The administration of the prison staff should be in **civilian** hands. It should not be part of a military structure.
- Persons deprived of their liberty should be held in places which are **officially recognized** as places of custody.
- A **detailed register** shall be kept of every person deprived of liberty. 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.
- 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. 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. **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.

- 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.

V. 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

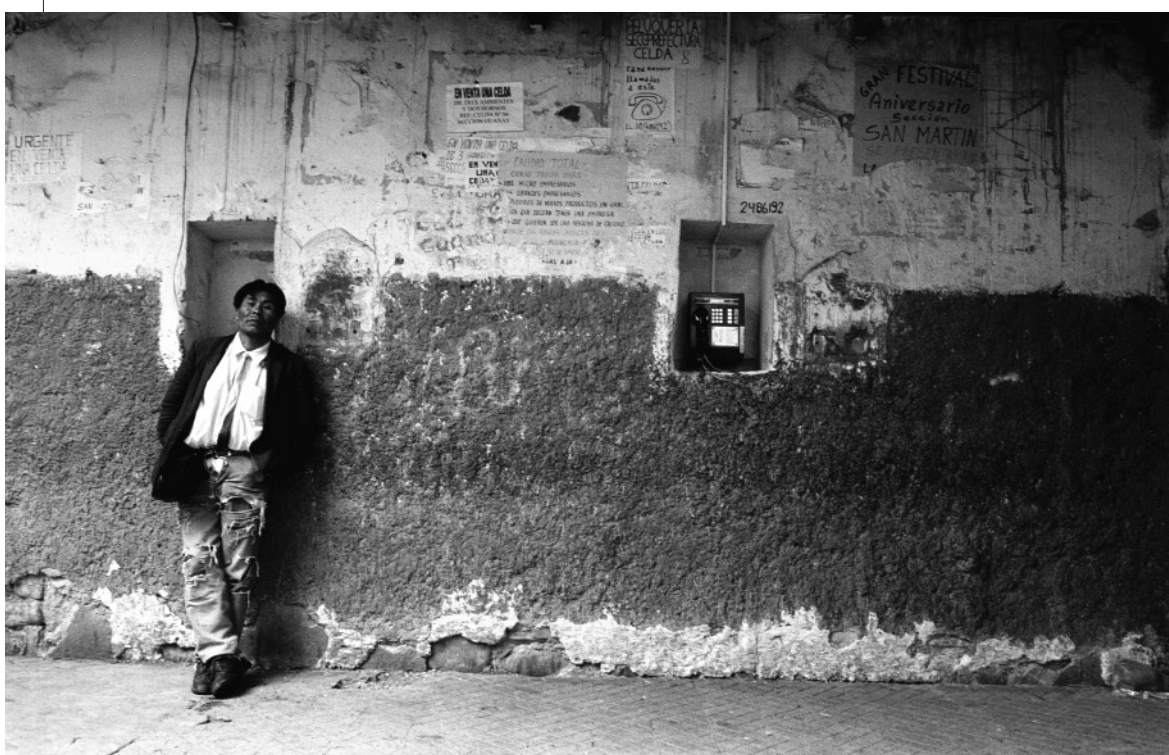
viewed as goals and aspirations rather than as real commitments upon which individual countries should be judged?

- 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?

VI. 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?

- C.** 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 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?
- D.** 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?
- E.** A prisoner has been held in pre-trial detention for 18 months. No date has been set for her trial. The prison authorities realise that the offence with which she is charged carries a maximum sentence of 12 months imprisonment. Bearing in mind the international instruments, what should they do?
- F.** You are responsible for providing work for prisoners. There is not sufficient work to employ all the convicted prisoners. Some convicted prisoners indicate that they would like to work. Taking into account the international instruments, how would you deal with this request?
- G.** 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?



INTERNATIONAL TRAINING PROGRAMME



Made possible with the generous support of the European Union.
Any part of this publication may be freely reproduced provided the source is acknowledged.

Introduction to Vulnerable Prisoners

I. Introduction

Purpose: To demonstrate that certain groups of prisoners, because of their nature or present situation, should be considered vulnerable; to show that these groups are entitled to additional services and protections due to their vulnerability; and to promote the use of non-custodial sanctions for vulnerable prisoners whenever possible and appropriate.

Definition: *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, the elderly, physically disabled or ill persons, and those held in pre-trial detention.

Background: 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: specialized medical facilities, separation from the general prison population, interpretation services, and greater monitoring by specially-trained prison staff. This Kit is intended to introduce several categories of vulnerable prisoners. For more information on these categories of prisoners and descriptions of various measures to be taken to protect them, see **Resource Kits I-B.2** Vulnerable Prisoners: Juveniles, **I-B.3** Vulnerable Prisoners: Women and Mothers, **I-B.4** The Mentally Ill and Developmentally Disabled in Prison, **I-B.5** Foreigners in Prison, **I-B.6** Vulnerable Prisoners: Minorities and Indigenous Peoples, **I-B.7** Prisoners Under Sentence of Death, and **1-C.7** Dealing with Remand Prisoners.

II. Objectives

- A. To show the certain groups of prisoners have special needs and circumstances that make them vulnerable;
- B. To show that specific protections for the rights of vulnerable prisoners does not amount to unfair treatment but rather is necessary to prevent discrimination;
- C. To promote overall tolerance and a reduction of discrimination in prisons; and
- D. To explain why these groups should be given special consideration for non-custodial sanctions whenever possible and appropriate.

III. Essential Principles

- A. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (*Universal Declaration of Human Rights [UDHR], Article 2*).
- B. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person (*International Convention on Civil and Political Rights, Article 10*).
- C. These principles shall be applied to all persons within the territory of any given State, without discrimination of any kind, such as race, colour, sex, language, religion or religious belief, political or other opinion, national, ethnic, or social origin, property, birth or other status (*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 5*).
- D. 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 (*Standard Minimum Rules for the Treatment of Prisoners [SMR], Article 8*).
- E. 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*).
- F. 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.
- G. Vulnerable prisoners should be given special consideration for non-custodial options because they are more likely to experience increased suffering in prison.

IV. Implementation

A. Non-Custodial Sanctions

For many of the groups of vulnerable prisoners discussed below, non-custodial sanctions may be far more appropriate than detention. Persons who would face an increased risk to their safety, security, or well-being as a result of imprisonment should given special consideration before being sent to prison. Many times a non-custodial option, such as an institution for

the mentally ill, a foster care placement, or a community service order would be a much more appropriate way to deal with these people who have broken the law. **See Resource Kits II-A.1, II-A.2, and II-A.3** on International Standards on Alternatives to Imprisonment, Introduction to Alternatives to Imprisonment, and Introduction to Community Service Programmes.

B. Juveniles

Though 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.

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.

International standards emphasize that children are entitled to all the human rights guarantees as adults as well as additional protections. When it is necessary to deprive a young person of his liberty, certain special considerations apply. These include that children who are detained shall be separated from adults; that they be brought for trial as speedily as possible; that children not be subjected to corporal punishment, capital punishment or life imprisonment without chance of release; that special efforts be made to allow children to receive visits and correspondence from family members; that juveniles of compulsory school age have the right to education and training; and that weapons not be carried in institutions which hold juveniles.

C. Women and Mothers

Around the world women make up a small a minority of those imprisoned (around 5 per cent). Since the vast majority of prisoners are men, prison systems tend to be run with men in mind.

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.

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. Women should be supervised and searched by female officers and staff.

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. 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.

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.

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 care as is accorded in the outside society. Whenever practical, women prisoners should be taken to outside hospitals to give birth.

Finally, 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.

D. The Mentally Ill or Developmentally Disabled

In many prison systems a significant proportion of prisoners suffer from some form of mental illness. 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. These problems are exacerbated by the fact that most prisons do not offer appropriate treatments and programmes for the mentally ill.

Developmentally disabled persons constitute a separate category of vulnerable prisoners. Often, prison staff treat these two categories of people in the same manner 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 recognize reality and cope with the demands of ordinary life.

Both mental illness and developmental disability leave prisoners vulnerable due to the difficulty of dealing with and controlling their behaviour in the prison environment. These prisoners face a heightened risk of being abused by the other prisoners, as well as staff, who take advantage of their weak mental state and limited avenues for recourse. They need special protections to prevent such abuse and mistreatment.

Prison is not the right place for people who are mentally ill. The prison authorities should make every effort to have them transferred to a psychiatric hospital. While they remain in prison they will require special care. There should be a close relationship between the prison medical officer and healthcare specialists in the community. Finally, it is particularly important in the case of prisoners who are receiving psychiatric treatment that arrangements be made for their continuing care after they are released.

E. Prisoners Under Sentence of Death

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 not justified based on the real level of danger they pose. The position of prisoners who are sentenced to death is one which leaves them vulnerable to mental strain, legal frustrations, and often neglect for months, years, and even decades.

The rights of prisoners under sentence of death are the same as those of other prisoners and all international standards apply. In addition, international instruments specify that they have the right to a mandatory appeal, to seek pardon or commutation of sentence, and to have access to information and communications to facilitate these actions.

Prisoners sentenced to death and their families should be treated with sensitivity by specially trained staff. Increased effort should be made to provide these prisoners with effective legal assistance, and they should always be notified in advance of their execution date.

F. Foreigners

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.

All practical steps should be taken to avoid the imprisonment of foreigners. However, when their detention is absolutely necessary, specific measures should be taken to alleviate difficulties that are likely to arise. These include accommodating language and religious require-

ments; preventing abuse and fear; ensuring access to alternatives to imprisonment, legal assistance, and basic supplies; encouraging contact with families, diplomatic representation, and fellow foreign nationals; and meeting the needs of asylum seekers and refugees.

G. Minorities and Indigenous Peoples

A minority group is smaller in number than the rest of the majority of population of a given region or nation. Minorities may have ethnic, religious, cultural practices, or linguistic features different from those of the majority of the population. Many minorities struggle to safeguard their culture, traditions, religion and language.

Indigenous peoples are descendants of the original inhabitants of a given territory, have been victims of conquest and colonization, and aspire to maintain their indigenous identity. Indigenous peoples are non-dominant in the economic, political and socio-cultural matters of a nation, though they may be larger in number.

Although the specific problems encountered by these 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 activi-

ties 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.

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. Persons from ethnic, religious or linguistic minorities have the right to their own culture, religion and language. Prison authorities need to 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 prisoners to voice their concerns.

H. Elderly, Ill, or Physically Disabled Prisoners

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.

Prison authorities need to consider carefully whether it is really necessary to hold elderly, ill, or physically disabled people in prison. Non-custodial options should be considered whenever possible. When these people are impris-

oned, special care should be given to ensure that their physical and mental health needs are met. 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.

I. Remand Prisoners

Remand prisoners are people who have been detained without a sentence and who are awaiting trial. Because the legal basis for the detention of these prisoners is different from that of sentenced prisoners, they have the right to specific legal safeguards. These include the right to be presumed innocent until proven guilty in accordance with procedures established by law, the right to a trial within a reasonable time, the right to a lawyer or other legal representative, and the right to inform their family of their detention.

In many prisons, remand prisoners are not treated in accordance with their full rights as unsentenced persons. Those who are facing relatively minor charges may be held in the same conditions of security as those facing serious charges. In other prisons, the conditions of pre-

trial prisoners are much worse than those for convicted prisoners. Their accommodation may be overcrowded, they may be confined to their cells for most of the day, and they may be generally ignored because of the potential transient nature of their detention. For all of these reasons, remand prisoners are often in an especially vulnerable position.

In the prison environment (or that of another place of detention), the treatment of remand prisoners needs to be appropriate to the presumption of innocence. They are not convicted persons and should not be kept in a place where the ethos is that of containing people who have been given a prison sentence. Many more special considerations and exceptions apply to these prisoners.

V. Issues for Discussion

- A.** 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?
- B.** 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 espe-

cially difficult for them compared to other prisoners?

- C.** Under what circumstances would a non-custodial sentence for vulnerable prisoners not be justified or appropriate? What special safeguards should be developed for vulnerable prisoners serving non-custodial sentences?
- D.** How do the needs of the vulnerable groups listed above differ from those of the gener-

al prison population? What measures can prison authorities take to protect vulnerable prisoners from being abused by other prisoners and staff?

- E.** 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?



INTERNATIONAL TRAINING PROGRAMME



Made possible with the generous support of the European Union.
Any part of this publication may be freely reproduced provided the source is acknowledged.

Vulnerable Prisoners: Juveniles

I. Introduction

Purpose: To reaffirm that detained juveniles are entitled not only to all the human rights protections accorded to adults, but that they should receive additional services and protections due to their immaturity and vulnerability.

Definition: The convention on the rights of the child (CRC) states that *A juvenile or child* is a person under the age of eighteen. *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.

According to the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, adopted on the 14 December 1990, deprivation of liberty is any form of detention or imprisonment or the placement of a person in a public or private custodial setting from which a person under the age of 18 is not permitted to leave at will, by order of any judicial, administrative or any other public authority.

Background: Young people are in their forma-

tive 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.

For these reasons, detention of juveniles should be used as a measure of last resort and for the shortest period. The younger the person, the greater should be the determination to avoid detention. Preventive measures, diversion from the formal justice system and non custodial sentences for juveniles should be encouraged (see Resource Kit III-B.2 on Diversion Programmes for Juveniles).

Family, relatives, social workers and lawyers should be informed as soon as the arrest of the child and should, together with the police, the prosecutor or the judge, look for a more appropriate and more human measures to protect the child and its basic rights.

International standards emphasize that, when it is absolutely necessary to detain children, they are entitled to all the human rights guarantees as adults as well as additional protections and considerations. This Kit discusses in detail these important measures to be taken for the protection of juveniles in prison.

All the international rules quoted below are

taken from the Convention of the Rights of Child (CRC), from the United Nations Standards Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), The United Nations Rules for the Protection of Juveniles Deprived of their Liberty and from the United Nations Guidelines for the Prevention of Juvenile Delinquency ("The Riyadh Guidelines")

II. Objectives

- A. To better understand that juveniles in detention are particularly vulnerable and are entitled to special considerations and protections because of their young age and their vulnerability;
- B. To learn what are the rights and protection that children in detention are entitled to;
- C. To present measures and programmes designed to protect detained juveniles from violence and exploitation, educate them and help them learn new skills (in particular life skills), and facilitate their reintegration into society.

III. Essential Principles

- A. The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period (*Beijing Rules, Rule 19.1*).
- B. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language... or other status (*Universal Declaration of Human Rights, Article 2*).
- C. Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of person his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances (*Convention on the Rights of the Child, 1989, Article 37.c*).
- D. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication (*International Covenant on Civil and Political Rights, Article 10.2.b*).
- E. Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an education setting or home but for the minimum necessary period (*United Nations Standard Minimum Rules for the Administration of Juvenile Justice [Beijing Rules], Rule 13.2*).

- F. In every place where juveniles are detained a complete and secure record of information (identification of the juveniles, fact, reasons and authority for detention etc...) should be kept and its access should be limited to a very restricted number of persons.
- G. While in custody, juveniles shall receive care, protection and all necessary individual assistance-social, educational, vocational, psychological, medical and physical-that they may require in view of their age, sex and personality (*Beijing Rules, Rule 13.5*).
- H. The objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society (*Beijing Rules, Rule 26.1*).
- I. Young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be ensured (*Beijing Rules, Rule 26.4*).
- J. In the interest and well-being of the institutionalised juvenile, the parents or guardians shall have a right of access. The family or guardian of a juvenile are to be notified of the admission, transfer, release, sickness, injury, or death of a juvenile (*Beijing Rules 10.1 and 11.3, and 26.5*).
- K. Inter-ministerial and inter-departmental co-operation shall be fostered for the purpose of providing adequate academic or, as appropriate, vocational training to institutionalised juveniles, with a view to ensuring that they do not leave the institution at an education disadvantage (*Beijing Rules, Rule 26.6*).
- L. Efforts shall be made to provide semi-institutional arrangements, such as half-way houses, educational homes, day-time training centres and other such appropriate arrangements that may assist juveniles in their proper reintegration into society (*Beijing Rules, Rule 29.1*).
- M. The family or guardian of a juvenile are to be notified of the admission, transfer, release, sickness, injury, or death of a juvenile (*Beijing Rules 10.1 and 11.3*).
- N. Weapons shall not be carried in institutions that hold juveniles (*Beijing Rules, Rule 65*).
- O. Closed links and cooperation should exist between the judiciary and the prison administration to facilitate exchange of information about juveniles in detention.

IV. Implementation

A. Different Treatment for Juveniles

Juveniles who are suspected or convicted of breaking the law should be treated differently from adults in a similar position. There are several reasons for this:

- Children in their growing age are physically and psychologically more vulnerable and fragile;
- Children are regarded as having less responsibility for their actions and the level of responsibility attributed them increases as they grow older;
- Children who have committed crimes are regarded as being more amenable to

change and to learning different ways of behaving than are adults; and

- Children and young people locked up in prison or pre-trial detention institutions are likely to be vulnerable to abuse and ill-treatment and are unlikely to be able to protect themselves from it.

Most jurisdictions have a minimum age of criminal responsibility. Children below that age

who are found to have committed a crime are not subjected to the criminal law but are deemed to need social help. Some jurisdictions have special courts (called 'juvenile courts' or 'youth courts') with special legislation. A separate branch of the judiciary presides in those courts. Many jurisdictions have special custodial institutions for juveniles and for young adults.

B. Juvenile Facilities

Housed Separately From Adults

International standards specify that juveniles must be housed separately from adults. Wherever possible, juvenile housing should not be on the same premises as the adult facilities. 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 if housed with adults.

Juveniles should have little, if any, contact with adult prisoners. Any contact must be fully supervised by prison staff at all times. Adult prisoners should not work in the juvenile portion of the prison. Adult prisoners should never serve as guards in the juvenile portion.

Classification

A child of 16-18 is not the same as a child of 12-14 or 14-16. Age mixing, especially with male prisoners-among whom bullying and victimisation is more prevalent-should be discouraged.

Juveniles should be classified by age, strength, and level of aggression (among other categories), and housed accordingly. Violent

juveniles should be separated and should be carefully watched to ensure that they not harm others.

Special attention should also be brought to young people from 18 to 21 years old, and should not automatically be transferred to an adult prison when reaching the age of 18.

Contact with Adult Prisoners

A well designed juvenile detention centre will provide a more personalised and better conditions of detention for young persons deprived of their liberty. It should be of adequate size, well lit and

ventilated, well furnished with regard to sleeping and living areas. Unless there are compelling security reasons, juveniles should be allowed to keep a reasonable quantity of personal items.

Physical Environment

A well designed juvenile detention centre will provide positive and personalised conditions of detention for young persons deprived of their liberty. It should be of adequate size, well lit and

ventilated, well furnished with regard to sleeping and living areas. Unless there are compelling security reasons, juveniles should be allowed to keep a reasonable quantity of personal items.

Emotional Environment

The primary objective of a detention place is not punishment but rehabilitation of the child in conflict with the law. 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 pro-

fessionals, 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.

Personalised Treatment

A personalised programme approach should be favoured whenever possible. The treatment philosophy of juvenile detention centres should be based on a respect for the rights and circumstances of each juvenile. Programmes should

be carefully planned around individual needs. The need for a well-ordered prison regime cannot override juveniles' entitlement to be treated fairly and personally.

Additional Resources:

More information is available in English at:

www.unhcr.ch/html/menu3/b/h_comp37.htm (UN High Commissioner for Human Rights)
The Child Criminal Justice Manual, Geraldine Van Bueren, United Nations International Centre for Crime Prevention, Vienna.

C. Intake Procedures

Intervention of a social worker

During the admission in a detention centre, the juvenile should meet with a social worker and

be interviewed. The first and most usual task of the social worker is to undertake a character

study of the juvenile. Information about the juvenile's personal situation, personality and its social and family background, the conditions in which he has lived or been brought up, his schooling... should be gathered. This information is essential to ensure a proper follow up of the case, facilitate rehabilitation of the child and protect the best interest of the child in any decision.

The report would also enable the judicial authorities to take any provisional measures other than detention, and the sentencing authority to determine the most appropriate measure and/or sanction....

Some countries allow the social worker (or probation officer) to make positive suggestions to the police and/or prosecutor. The judicial authority imperatively requires conclusions in the form of proposals from the social worker.

Detention Pending Trial

The detention of juveniles pending trial shall be used only as a measure of last resort and for the shortest possible period of time.

Prison officials should make every effort to ensure that juveniles are not being held without having their cases adjudicated. They should have regular contact with judges, prosecutor (phone,

visits, reports) in charge with the case. They should ensure that every child have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available. They should also ensure that a judge follow the case of the child and grant conditional release at the earliest possible time and to the greatest possible extent.

Information Packet

Upon admission to the detention centre, juveniles should receive an information packet in their language that notifies them of the rules of the facility, their obligations, and their rights. If

a juvenile is illiterate, prison staff should convey the information so that they fully understand. Juveniles should know where they can obtain help if they feel upset or unsafe.

Screening for Health Problems

As with adult prisoners, juveniles should be thoroughly screened for health, psychiatric,

emotional, drug and alcohol problems and a proper record should be kept.

Classification

At the time that a juvenile enters the facility, trained prison staff should evaluate the juvenile's age, criminal record, and criminal file to

determine where and with whom the juvenile should be housed.

D. Juvenile Health Care

Physical Health Care

As with adult prisoners, juveniles are entitled to adequate health care from trained health care providers. Young female offenders will require special attention to their health needs and emotional adjustment. Juveniles should also receive all required vaccinations, including

those for measles, Tetanus, Influenza type B, Polio, Rotavirus, Diphtheria, and Pertussis. In addition, detained juveniles should be screened and should receive adequate treatment for drug or alcohol addiction.

Mental Health Care

Being under the age of eighteen does not insulate detained juveniles from mental illness and emotional problems. In fact, juveniles regularly suffer from various mental health problems, especially conduct disorder, mood disorders, sleep disor-

ders, psychotic disorders, post-traumatic stress disorder, and schizophrenia. Juveniles should be screened and receive treatment for mental health problems. Every youth facility should have a trained child psychologist on staff.



Additional Resources:

More information is available in English at:

www.hipp-europe.org/resources/internal/yois/0020.htm (Health In Prisons Project)

www.aclu.org/issues/prisons/npp_policy.html (American Civil Liberties Union)

www.cwru.edu/med/epidbio/mphp439/Chapter15.htm (Case Western Reserve University)

Drug and Substance Abuse

A high percentage of juvenile offenders are addicted to drugs or other illegal substances (such as glue or non-prescription medication). Placement or detention in an adequate place providing treatment, counselling, therapy and

health care can sometimes help to break the cycle of drug addicted children in conflict with the law. Medical and psychological assistance, in particular, are extremely important for drug addicts.

Example: Drug Treatment Programme, United States

Once a child is admitted into this programme, run by a New York State prison, staff members blend individual counselling with family therapy and social services that continue for up to one year after discharge. The staff contacts community-based aftercare services, such as job-skills training, literacy instruction and drug-free housing, on the child's behalf.



Additional Resources:

More information is available in English at:

<http://www.jrn.columbia.edu/studentwork/children/download/drugprog.html>

(New Drug Program For Juveniles In Detention)

Example: Therapeutic Communities, Pakistan

In the Peshawar Central Prison, Pakistan, a team of psychologists, social caseworkers, medical doctors counsellors conduct therapeutic community activities for juveniles who are addicted to drugs. They provide education, medical, counselling, vocational skills, care, support, recreation and legal aid.

E. Programmes for Juveniles

The goal of detention is to give juveniles the tools they will need to succeed in life outside the institution.

Some aspects of rehabilitation programmes for adult prisoners are also relevant for juveniles.

Self-Image

A positive self-image is essential to success in almost all areas of life. Young people are in an especially intensive phase of forming their identities and self-perceptions. For this reason, improving self-esteem should be an integral part of all programmes for juveniles in detention. Group activities teaching character-building and interaction skills, for example, have been shown to be effective in raising young people's self-esteem.

Detained juveniles should never be labelled as 'delinquents' or 'hopeless cases'. Such labels can have a profound effect on a juvenile's perception of himself and consequently his ability to reintegrate following release. Once released, efforts should be made to see that juveniles are not stigmatised as someone with a criminal background. After an appropriate time lapse, criminal records should be deleted.

Additional Resources:

More information is available in English at:

www.rppi.org/privatization/ccrp/pw/Jan2001.html (Reason Public Policy Institute)

Education

Education is crucial to leading a full, responsible, and healthy life at all stages. If a child does not receive an adequate education, he is much more likely to have a difficult time in life. It may be hard to find meaningful work, for example, making criminal activity a tempting choice.

All detained juveniles of compulsory school age have the right to education commensurate with their abilities. If possible, courses can be conducted within community schools. If courses are taught within the detention facility, juveniles should attend classes for a full school day. When possible, the classroom environment

should be friendly. Teachers should be qualified in accordance with community standards and their number should be such that classes remain as small as possible.

A successful educational programme requires teachers and prison staff to work together as a team. For example, prison staff must ensure that the juveniles have time and suitable conditions in which to do their homework.

In order to prevent stigmatisation after release, educational certificates should not show that they were gained in an institution.

Additional Resources:

More information is available in English at:

www.doc.state.ok.us/DOCS/OCJRC/Ocjrc96/Ocjrc29.htm

(Oklahoma Department of Corrections)

<http://www.homeoffice.gov.uk/> (Home Office, England and Wales)

Recreation

Detained juveniles should engage regularly in outdoor exercise and recreational activities, including team sports. Juveniles should also have access to recreational equipment, includ-

ing balls, cards, and other games. All recreation time should be carefully supervised by staff in order to prevent bullying or harassment.

Vocational Training

Juveniles should receive vocational training that will prepare them to assume productive employment in the community following their release. Young female offenders shall not receive less treatment and training than young male offenders. All national and international standards and laws regarding child labour are applicable to detained juveniles.

Example: Rehabilitation Centre, Russia

In Ardatov, Russia the NGO Sretenye created the 'Belief. Hope. Love. Rehabilitation Centre for Young Offenders.' The Centre provides training in computer skills, joinery, small-scale farming, and driving skills.



Additional Resources:

More information is available in English at:

www.penalreform.org/english/nlececa8_2.htm (Penal Reform International)

Maintenance of Family Ties

Every effort should be made to help juveniles maintain relationships with their families. Maintenance of family ties can help juveniles re-assimilate into society. Juveniles with family support are more likely to live law-abiding lives after their release.

Family ties can be maintained through:

- Scheduling regular family visits within the prison facilities. Juveniles should be permitted to meet with family members in private;
- Arranging furloughs for juveniles to visit their homes;
- Encouraging juveniles and family members to write and telephone on a regular basis; and
- Allowing juveniles to keep personal possessions, such as family photographs and memorabilia in their sleeping areas.

International standards explain that, in the interest and well-being of the institutionalised juvenile, the parents or guardians have a right of access. They also have the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. The director of the detention facility should notify immediately the family or guardian in case of death, illness requiring transfer of the juvenile to an outside medical facility, or a condition requiring clinical care within the detention facility for more than 48 hours.



Additional Resources:

More information is available in English at:

www.doc.state.ok.us/DOCS/OCJRC/Ocjrc96/Ocjrc29.htm

(Oklahoma Department of Corrections)

Maintenance of Community Ties

Juveniles who are cut off from the community are less likely to assimilate into the mores and expectations of society, including respect for the law. Juveniles who are isolated from the community are at greater risk of re-offending.

Prison staff should arrange to have members of the community come in regular contact with detained juveniles via recreational, cultural,

educational, or other programmes. Community volunteers can organize and run cultural, educational, ministry, and vocational activities. Such ties can have a beneficial effect on both the juveniles and the volunteers: the juveniles maintain relationships with the community and its values while the community is less likely to ostracize the juveniles after they are released from prison.

Preparing for Release

Prior to their release, juveniles should receive instruction in basic life skills, including communication and conflict resolution, career skills, and courses on how to live independently as adults. At the time of their release, most juveniles will have no experience living alone. Life skills courses could be provided to children in conflict with the law.

Appointing a *case manager* can be a helpful

way to make sure arrangements have been made for the juvenile to have a place to live, employment, and other basic requirements upon release.

Parents or guardian of the child, social worker and any other person having interest for the child (school director, members of the community etc...) should also be fully involved in the preparatory release of the child.

F. Programmes for Juveniles

Minimum Security

As with adults, juvenile prisoners should be afforded the least security necessary to ensure their secure detention. The emphasis of all juvenile institutions should be not on confine-

ment but on creating an environment in which rehabilitation is possible.

Small size and "open" centers should be favoured.

Instruments of Restraint or Force

In general, instruments of restraint or force should be prohibited on juveniles. They should only be used as a last alternative, when all other control methods have been used without success. They should never be used to degrade or

humiliate. If such instruments are used, the prison director should immediately consult medical personnel. The presence of weapons does not facilitate communication and positive relationship between staff and juvenile detainees.

Isolation and Other Sanctions

Juveniles should never be put in isolation as a form of punishment or control. Similarly, corporal punishment, reduction of diet, restriction or

denial of contact with family members must be prohibited.

Collective sanctions should be prohibited.

G. Staff

Staff Selection and Training

There should be a special selection procedure for staff working with juveniles. They need to be given special training. Staff members working with juveniles should receive specialised training in child psychology, child welfare, and international standards regarding the rights of the child. They should also be trained on sui-

cide prevention, first aid, and HIV/AIDS awareness. Learning how to recognize and deal with bullying is also particularly important. In order to refresh skills, share experience, and renew the motivation of staff working with juveniles, in-service training should be offered on a regular basis.

Mixed Gender Staff

Juvenile detention centres should have mixed gender staffing. The presence of both male and female staff can have a beneficial effect in terms of both the custodial ethos and in foster-

ing a degree of normality in a place of detention. In addition it allows for appropriate staff to carry out gender sensitive searches.

Staff Relations with Juveniles

It is essential that staff communicate with juveniles. For instance, understanding the reasons of a fight between young offenders is only possible through good listening skills and close communication. Without this effort to understand a juvenile's feelings, their sense of anger

and injustice is likely to increase, hindering their progress toward rehabilitation.

The attitude of staff members toward detained juveniles has a profound effect on juveniles. If staff members abuse or humiliate juveniles or fail to maintain order, they will be at

risk of developing low self-esteem and behavioural problems, including a lack of respect for authority. On the other hand, caring, sensitive,

and professional staff members can have a profound and positive effect the life of a young person in prison.



Additional Resources:

More information is available in English at:

www.homeoffice.gov.uk (Home Office, England and Wales)

V. Issues for Discussion

- A.** In some countries, as many as 80 percent of juveniles who are imprisoned are convicted of another offence within two years of their release. This suggests that imprisonment is failing to help these children to lead law-abiding lives. Is it possible to do something about this situation? Is so, how?
- B.** Many children in prison come from children's homes or other institutions. How can the needs of these children for family relationships best be met while they are in prison?
- C.** What methods of discipline might be used with very unruly children in prison with histories of repeated serious offending? What sorts of education or training might they be encouraged to undertake?
- D.** Many juveniles deprived of their liberty should not actually be detained. What are some of the reasons that a juvenile should not be in prison?
- E.** Is there some NGOs involved in the activities of the prison? In which field are you working with them?

VI. Case Studies

- A.** 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?
- B.** Most of the juveniles in your prison are in pre-trial detention. Two juveniles have been in prison for six months and the cases have never come before a judge at all. What can you, as prison administrator, do to ensure these people get a fair and prompt trial?
- C.** Bullying and intimidation have become a major problem in your institution during recreation time. What are some ways to prevent this from happening without limiting the freedom of movement of the detainees?

- D. A child arrives in prison and claims that he is below the minimum age for imprisonment. However, he has no birth certificate. What should be done?
- E. You are a prison officer on duty. One day you receive a phone call telling you that your son has been convicted for drug offence and has been put to jail. What would be your reaction?



INTERNATIONAL TRAINING PROGRAMME



Made possible with the generous support of the European Union.
Any part of this publication may be freely reproduced provided the source is acknowledged.

Vulnerable Prisoners: Women and Mothers

I. Introduction

Purpose: To show that women and mothers should be considered vulnerable prisoners and to present measures that address their needs and vulnerabilities.

Definition: 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.

Background: Around the world women make up a small a minority of those imprisoned (around 5 percent). The percentage of women staff is similarly low. Since the vast majority of prisoners are men, prison systems tend to be run with men in mind.

In the coercive, closed prison environment, women are especially vulnerable. Men (both staff and other prisoners) often physically, emotionally, and sexually abuse women prisoners. Another difficulty for women prisoners relates to 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. 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.

In addition, 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 who come into prison pregnant or as nursing mothers face great problems. It is difficult to bring a baby up in prison even if the prison conditions are hygienic and suitable, and to separate a baby from its mother is a serious decision to take.

Finally, women prisoners face special problems upon release. The stigma many prisoners face is often experienced more acutely by women.

II. Objectives

- A. To show that women, and especially mothers, in prison have special needs and circumstances that make them vulnerable;
- B. To learn what are the rights and protection that children in detention are entitled to
- C. To explain that special measures need to be taken to ensure the fair treatment of women in prison; and
- D. To present practices and programmes that protect and promote the overall well-being of women prisoners.

III. Essential Principles

- A. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language... or other status (*Universal Declaration of Human Rights, Article 2*).
- B. Measures applied under law and designed solely to protect the rights and special status of women, especially pregnant women and nursing mothers, children and juveniles, aged, sick or handicapped persons shall not be deemed to be discriminatory (*The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 5.2*).
- C. Violence against women shall be understood to encompass, but not be limited to, the following: physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs (*United Nations Declaration on the Elimination of Violence Against Women, Article 2.c*).
- D. Men and women shall so far as possible be detained in separate institutions: in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate (*United Nations Standard Minimum Rules for the Treatment of Prisoners [SMR], Rule 8.a*).
- E. In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practical for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate (*SMR, Rule 23.1*).
- F. 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*).
- G. In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution (*SMR, Rule 53.1*).
- H. No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer (*SMR, Rule 53.2*).

- I. Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and

teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women (*SMR, Rule 53.3*).

IV. Implementation

A. Facilities for Women Prisoners

Equal Quality Facilities

All of the basic requirements for prison facilities as determined by international standards apply equally to female prisoners. Women prisoners are entitled to live in a safe, hygienic environment. Each prisoner shall have her own bed and bedding, clean clothes, and sanitary supplies, and

should have access to adequate toilet and bathing facilities. Common areas shall be well-maintained and kept clean. In accordance with international standards prohibiting discrimination on the basis of sex, facilities for female prisoners shall not be inferior to those provided for male prisoners.

Separation from Men

All international standards clearly require that, women prisoners must be detained separately from male prisoners.

Studies conducted around the world show that the rape and abuse of female prisoners and detainees is common, often with the complicity

of prison guards. If separate facilities are not reasonably possible, female prisoners can be housed in a segregated area that is contained within shared facilities. Male prisoners should have no physical or visual access to this segregated area.

Balance of Quality Facilities with Proximity to Community

The accommodation of women often poses difficulties because the numbers of women prisoners coming from each town or region are too small to need a special prison building. For these reasons, women tend to be housed in makeshift buildings or in annexes to men's prisons, and are often not given access to the same level of facilities for education and training as

men. The alternative is to place them in a special women's prison, but this usually results in placing them far from their homes and families.

When women have to be placed far from their families, arrangements can 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.

Visits

Special visiting facilities should be provided for use by visiting family members. The unit should

have sections for recreation and play activities to encourage positive interaction between

female prisoners and their visiting family members. Research shows that lack of adequate contact with children and family members constitutes one of the highest worries for female prisoners. Within the limits of good order, visit-

ing arrangements should be flexible and dependent on individual circumstances. Fostering regular contact with family and relatives is the best ways to promote the reintegration of prisoners following their release.

Classification of Women Prisoners

Within the women's section of the prison, women prisoners should be classified according to their personal circumstances, including their criminal record, their age, the nature of their offence, and

the length of their sentence. Adult women should be separated from girls, and women with a known history of violence should be separated and watched closely so that they do not abuse others.

B. Female Juveniles in Prison

All the protections for juveniles (discussed in *Resource Kit I-B.2 Vulnerable Prisoners: Juveniles*) apply to both male and female juveniles. Incarceration should always be a last resort for juveniles. If young women under the age of 18 are sentenced to prison, they should always be separated from both female adult

prisoners and from male juveniles. Female juveniles are particularly subject to abuse by older prisoners, including sometime women prisoners. Well-trained and sensitive staff should carefully supervise all interaction between female young people and other prisoners.

C. Staff and Women Prisoners

Sexual Abuse of Women Prisoners by Staff

Sexual abuse, including rape, is used as a tool to coerce, control, and subjugate women. Improper touching during pat-downs and

searches, as well as the observation of inmates as they use the toilet or take showers, are also frequent occurrences.

Example: Sexual Assault by Law Enforcement, Pakistan, Turkey, Nigeria

Rape, sexual assault, and abuse during the early stages of arrest and detention is a serious problem in many countries. According to Human Rights Watch, over 70 percent of female prisoners in Pakistan are sexually assaulted by police officials. Amnesty International has documented widespread rape and sexual assault of female detainees in Turkey. It has also been found that police in Turkey use 'virginity exams' (an examination of the female hymen) to torture and harass women detainees. In Nigeria, rape and sexual assault of female detainees by police and members of the prison staff are reported regularly.

Security Searches

Male members of staff should never search women prisoners. Requiring women to remove all their clothes to be searched for security reasons, with several onlookers present, has implications for respect for human dignity even when men are nowhere in the vicinity. The car-

rying out of internal body searches is extremely problematic and can cause enormous distress and humiliation for women. Such searches should be used only when there is strong evidence to suggest they are absolutely necessary.

Women Staff or Mixed Gender Staffing

International standards state that women prisoners should be looked after exclusively by women staff. They should never be looked after exclusively by male staff. They should never be placed in a situation where they are at

risk of abuse and harassment by male members of staff. When male staff deal with women prisoners there should always be a female member of staff present.

Staff Selection and Training

Staff entrusted with supervising women should be carefully chosen. They should have training in the specific problems likely to be faced by

women prisoners, such as prior abuse, drug use, and anxiety related to separation from family.



Additional Resources:

More information is available in English at:

Women and Torture: A Psychosocial Perspective, paper delivered at the VII International Symposium on Torture, Agomoh University, 1999.

Patterns of Abuse of Women's Rights in Employment and Police Custody, CLO, Lagos Akumadu, 1995.

<http://www.amnesty.ca/usa/mar4.htm> (Amnesty International)

<http://www.amnesty-usa.org/turkey/women.html> (Amnesty International)

<http://www.ihf-hr.org/index.php> (International Helsinki Federation for Human Rights)

<http://www.hrw.org/pub/web/Webcat-76.htm> (Human Rights Watch)

http://www.ahrchk.net/solidarity/200103/v23_17.htm (Asian Human Rights Commission)

More information is available in English, French, Spanish, and Arabic:

<http://equalitynow.org/> (Equality Now)



Additional Resources:

More information is available in French at:

Centre de Recherches Sociologiques sur le Droit et les Institutions Pénales, Delinquances des Femmes et Repression Penale, Bulletin d'Information IX.5, decembre 1996.

Women Prisoners: Towards a New Millennium, National Association for the Care and Resettlement of Offenders, October 1996.

D. Women's Physical Health in Prison

General Health Care

The standard of health care received by women must be of the same quality as that received by male prisoners. General health examinations should be performed both at intake and throughout the term of imprisonment, including

screening for common and infectious diseases and drug addictions, and providing comprehensive treatment for any medical problems. For women, part of their essential health care needs includes access to a gynaecologist.

Hygiene

Women have specific hygiene needs which need to be addressed in prison, including safe disposal arrangements for blood-stained arti-

cles and access to hygiene items such as sanitary towels and tampons.

Health Care Providers

Wherever possible, women doctors should be available for consultation. When women doctors are not available, this should never be used

as an excuse to fail to provide women with adequate health care.

Security During Medical Examinations

During medical examinations or the provision of treatment, women should never be handcuffed or shackled. In cases where they pose a significant and realistic threat to the safety of those

around them, or have a proven history of attempting to escape, all other methods of ensuring security shall be attempted before physical restraints are used.

Sexually Transmitted Diseases

A significant percentage of women prisoners are infected with a sexually transmitted disease

(STD) upon entering prison. STDs include HIV/AIDS, Chlamydia, gonorrhoea, hepatitis,

syphilis, genital warts, and herpes. All incoming prisoners should be screened for STDs, and those who are infected given comprehensive and carefully explained treatment. All prisoners,

whether infected with an STD or not, should receive counselling on STDs and HIV/AIDS and their methods of transmission.

Drug and Substance Abuse

Like men prisoners, many women prisoners have a history of drug and substance abuse. Addictions can render female prisoners particu-

larly vulnerable to abuse or mistreatment by guards and other prisoners.

Pregnancy

A pregnant or nursing mother should only be sent to prison after all other options have been carefully considered.

Women prisoners should be given pregnancy tests upon admission to prison. International standards are clear that pregnant women prisoners should receive as high a level of care as is accorded in the outside society. Particularly important for pregnant women are regular check-ups from an obstetrician or gynaecologist, a nutritious diet, vitamin supplements, and regular exercise. Pregnant women should be advised that smoking, drinking alcohol or taking drugs can cause miscarriages, developmental problems, and birth defects. They should receive counselling on what to expect during and after the birth, as well as information about family planning. After giving

birth, women should receive counselling and should be monitored for depression.

Whenever possible, women should give birth in a hospital. Women should never be restrained while giving birth, as this is very dangerous for the health of both mother and baby. If a child is born in prison, this fact should not be mentioned on the birth certificate.

Following the birth, the mother should be returned to the prison only once a doctor has determined that neither the mother nor the baby's health will be compromised. Should babies remain with their mothers in prison, proper care has to be provided. Jurisdictions vary in the rules they make about women prisoners' babies. See the section below for more information about children with mothers in prison.



Additional Resources:

More information is available in English at:

<http://www.fsu.edu/~crimdo/dyer.html> (University of South Florida)

<http://www.ncchc.org> (National Commission on Correctional Health Care)

<http://www.ncsociology.org/prison.htm> (North Carolina Sociological Association)

<http://www.ncianet.org/> (National Center on Institutions and Alternatives)

<http://www.hipp-europe.org> (Health in Prisons Project)

E. Women's Mental Health in Prison

Women prisoners suffer from similar kinds of mental health problems as male prisoners, and are entitled to the same quality of mental health care received by men.

Females are more likely than males to experience mental illness in prison. Rates of depression, anxiety, phobias, neuroses, and self-mutilation, and suicide have found to be higher among women in many countries. Higher rates of mental illness among women prisoners has been linked to higher rates of past physical, sexual or mental abuse as well as extreme stress resulting from separation from children and loved ones.

The most common time for women to experience mental health problems is just following their admission to prison. Many prisoners experience the greatest anxiety and the highest level of stress during this period. It is therefore crucial that all incoming prisoners be screened for existing and potential mental health problems by qualified mental health personnel. Women who are deemed to be at risk should receive immediate counselling and support.

Mental health personnel should also conduct ongoing assessments of female prisoners throughout their stay in prison. In addition, prison staff should receive training to enable them to recognize signs of potential mental problems.

Women in Prison and Menopause

The arrival of menopause can be stressful for many women. For those in detention, the arrival of the end of childbearing years can add an additional, sometimes traumatic aspect to already difficult conditions. Not only may imprisonment have deprived a woman of her opportunity to bear children, but dealing with the emotional stress of menopause, without the support of family and loved ones, can be very difficult in a prison setting. In some cases,

the stress of imprisonment can accelerate the onset of menopause. These problems may be of particular concern in countries where great emphasis is placed on the role of women's role as bearers of children. Both medical and non-medical prison staff should be aware of this issue and should be sensitive to stress during this period of a woman's life. Psychological support should be offered whenever possible.



Additional Resources:

More information is available in English at:

<http://www.oicj.org/> (Office of International Criminal Justice)

<http://www.hipp-europe.org> (Health in Prisons Project)

http://news.bbc.co.uk/hi/english/health/newsid_120000/120856.stm (BBC News)

<http://web.ukonline.co.uk/howard.league> (The Howard League for Penal Reform)

F. Women Prisoners with Children

One of the most complex issues relating to the imprisonment of women is deciding how much access imprisoned mothers should have to their minor children, including children born while the mother was imprisoned. Prison is not a healthy or appropriate environment for children. Children in prison often do not receive adequate stimuli to develop normally. They also are not usually able to interact regularly with the outside community and other family members.

On the other hand, studies have shown that

young children who are forcibly separated from their mothers suffer long-term developmental and emotional damage. These psychological and developmental problems tend to stay with children throughout their lives.

Governments around the world have adopted various approaches to this problem. Some countries allow mothers to keep their babies with them until they reach a certain age, 9 months, 18 months, 2 or 3 years and then the babies are taken away and cared for elsewhere.

Example: Age Limits for Children in Prison, Europe

In Europe, different countries have set the following age limits for allowing children to remain with their mothers in prison: Sweden, up to one year; Germany and Spain, up to six years; the Netherlands, up to four years in one prison; Portugal and Switzerland, up to three years; Finland, up to two years; and England and Wales, up to eighteen months.

Whatever the arrangements which are made, it is likely that the mother's relationship with the child will be damaged by the fact that the mother is a prisoner. The problem is best avoided entirely by keeping mothers out of prison unless they have committed serious offences and pose a realistic danger to the community. Around the world, the vast majority of imprisoned women have been charged with petty, non-violent offences, including theft and drug offences. These women, their children, and the community as a whole would be better served if mothers receive alternative sentences, such as community service or drug treatment, that permit them to remain with their children outside of prison.

However, women who have committed serious crimes, prisons should consider creat-

ing special units to house mothers and young children. These units should provide mothers and children with a home-like atmosphere to aid in the children's development. The mothers should be able to visit the children throughout the day and stay with the children at night. If possible, staff should provide nurseries or other care and education opportunities for both mother and children. Both mothers and children should be able to have regular contact with other family members, such as aunts, uncles, and cousins.

Once the children reach a certain age, preferably after the age of two, they should leave the prison. From that point onward, every effort should be made to encourage regular contact between the mothers and their children. For example, mothers should be assigned

to prisons close to their children's homes. Visitation should be encouraged on a regular basis. Prison visiting rooms should be constructed in such a manner that women are able to have physical contact with their children.

Example: Summer Camp for Children of Women Prisoners, United States

The women's prison in the state of Indiana in the United States runs a summer camp that permits children to spend quality time with their imprisoned mothers.

Example: Children in Prison with Mothers, India

As part of a study conducted at the Hyderabad State Jail for Women in India, project workers interviewed some of the young children who were in prison with their mothers. They made the following observations: the children missed their other family members; they did not like the food; there were not enough toys; the children often suffered from allergies and stomach problems and did not receive adequate or timely medication; there was no system to provide clean clothes to the children on a regular basis; and the children had a monotonous routine and little exposure to the outside world.

Example: Children in Prison with Mothers, Nigeria

There is no specific policy regarding age limit for children with mothers in prison. The decision to keep the baby with the mother is often determined by the availability or non-availability of a relative willing to take the responsibility of caring for the child. There have been instances of children who are up to 5 years or more staying with their mothers in prison. During an on-the-spot assessment carried out by PRAWA at Abakaliki Prison, it was observed that many of the children were withdrawn, fearful of visitors, and had no specific educational or care programmes.

Additional Resources:

More information is available in English at:

Shankardass, Rani Dhavan, Where the Mind is Without Fear and the Head is Held High: Mental Health and Care of Women and Children in Prison in Andhra Pradesh, Penal Reform International and Penal Reform and Justice Association (2001).

Women Prisoners: Towards a New Millennium, National Association for the Care and Resettlement of Offenders, Oct. 1996.

Juvenile Mothers

Many women who are pregnant or are mothers in prison are also juveniles. Young mothers in prison are even more vulnerable to severe adverse social, emotional, and economic consequences than adult mothers or other juveniles. These women need very close attention and care. Because of their young age, they are at greater risk during pregnancy and may need

more help learning how to care for their children. Facilities should be arranged so that mothers in juvenile detention centers can care for their children and have access to them at night, just as adult women prisoners do. They should be given as much access to support from their families as possible.

Example: Juvenile Mothers Programme, United States

A programme in the state of Texas aims at helping incarcerated teenage mothers. It is a medium-security programme in a rural residential setting. WINGS (Women in Need of Greater Strength) aims to increase social and cognitive competencies, with special emphasis on reasoning, decision-making, anger control, victim empathy, interpersonal problem-solving, and moral development. The teen mothers should leave the programme with increased employability skills, especially in employment-seeking and job-retention skills. Special classes are also offered in parenting.

G. Rehabilitation and Reintegration for Women Prisoners

As with men, women in prison can benefit significantly from rehabilitation and reintegration programmes, including treatment for drug

abuse, educational and vocational training, and life skills courses.

Equality of Access to Education, Training, and Work

Often, women do not receive services comparable to those of men. This is particularly true with opportunities for vocational training and educational training. For example, male prisoners might receive training in auto repair or computer skills-marketable skills that could provide a decent income upon release-while female prisoners may be required to do 'women's work' such as washing prison laundry.

All international standards state that female prisoners have the same right to learn marketable skills that will enable them to earn a living wage following their release from prison. They must have access to facilities and training that are equal to those of men. Income generation projects, such as the use of micro-credit facilities and community-based skills training, can be a way to teach women useful skills in preparation for their release.

Preparation for Release

Women prisoners face special problems on release from prison. Like men, women in prison often have a low level of social and economic skills when they enter prison. In addition, the stigma which faces many prisoners is likely to be experienced even more acutely by women.

Pre-release programmes, including parenting classes and life skills courses, can help women make the transition to freedom.

Because women are more likely to be single parents than are men, parenting classes can be especially helpful. Social and psychological support is also important.

Prison authorities should make an effort to arrange for post-release housing for women prisoners-especially those with children. Not having a safe, stable place to stay can make reintegrating into society and reuniting with children nearly impossible.

NGOs and Women in Prison

Because of the limitations on prison treatment caused by the small numbers of women prisoners, prison authorities can benefit greatly

from involving outside organisations in helping women in prison and women on release from prison.

Example: NGO for Women in Prison, UK

The organisation Women in Prison organized the 'Education and Training Connection' (ETC) Project to educate Britain's female prisoners. The ETC funds correspondence courses for inmates, places prisoners in colleges and training centres following their release, and provides practical assistance to help former prisoners succeed outside of prison.

Example: Training for Women in Prison, Austria

Outreach, an organization based in Vienna, Austria, organizes computer-training courses for female inmates who are housed in Correctional Institution Favoriten. The goal of the programme is to teach inmates useful skills that will enable them to find gainful employment following their release.

Example: NGO for Women in Prison, Nigeria

Prisoners Rehabilitation and Welfare Action (PRAWA) conducts a weekly literacy and support circle programme in the Female Prison Kirikiri Lagos to encourage confidence building, self-esteem, and improved communication skills amongst female prisoners. Alternative to violence training workshops and training on life planning skills are also conducted for ex-prisoners and others in the community by PRAWA. Community-based dress and soap-making workshops are available for female prisoners in Lagos and Enugu by PRAWA, and a knitting workshop for female ex-prisoners is provided by the Society for the Welfare of Women Prisoners (SWEWP) in Enugu.



Additional Resources:

More information is available in English at:

<http://www.womeninprison.org.uk/> (Women in Prison)

<http://www.wpaonline.org> (Women's Prison Association)

V. Issues for Discussion

- A. In your country, what are the differences (if any) in the treatment of women prisoners compared to men? How do the women's needs differ from those of the men prisoners?
- B. In your country, what is the maximum age a child is allowed to stay in prison with his/her mother? What would be the advantages of raising or lowering this age?
- C. What facilities should be provided in prison for women to encourage the maintenance of relationships between older children visiting their mothers?
- D. What special arrangements need to be made in the unusual circumstance that a woman with an infant child has to be held in solitary confinement?
- E. In many women's prisons, the only educational and leisure activities that are offered are related to domestic pursuits such as handicrafts. Should anything be done to change this? What other activities can be introduced?
- F. What are the issues surrounding the introduction of women staff to prisons for men? How does this situation differ from using male staff in female prisons?
- G. What does your prison service provide by way of sanitary protection for women? What about safety considerations—are there any particular safety issues that are relevant to female prisoners?
- H. What alternatives and support should be established for a 38 year old woman awaiting trial for the murder of her husband, when you know that it is unlikely that her case will be resolved in the next five to seven years?

VI. Case Studies

- A. In a large prison there is a separate unit for women prisoners. Their primary activity is washing and repairing the clothes of the male prisoners. The international instruments require that women have access to education and work facilities equal to those of men. How can this be arranged?
- B. In a women's prison, women are allowed to keep their children with them up to three years of age, but they are required to leave their children in a nursery and undertake prison work for eight hours per day after the child is six months old. Many women in the prison become extremely distressed about

leaving their children in the nursery. What might be done to improve the situation?

- C.** Elizabeth, a 25-year-old inmate in your prison, has been charged with murdering her husband. She is eight months pregnant and needs to be transported to the local clinic for specialized prenatal care. What types of security measures are appropriate? What kinds of issues should the prison staff consider when deciding whether Elizabeth poses a realistic threat to either other prisoners or to the guards?
- D.** A 42 year old woman has six years left to serve on a 10 year sentence. She has grown increasingly depressed and withdrawn. She has declined visits from her sister and her only daughter, the only members of her family who have retained contact with her during her imprisonment. She is frequently found sobbing. How could you deal with this situation?

- E.** The prison where you work has established a unit for taking care of infants and children of female prisoners. An international NGO has recently donated toys, clothes, books, and other items to the children of this unit. The prison staff has decided that the best way to preserve these items is to allow the children to play with them only when outsiders visit the prison. The mothers are unhappy with this situation and complain to the director of the prison. What actions-if any-should the director take?
- F.** A female prisoner takes her baby to the prison doctor for medical treatment. When the doctor prescribes medication, the prisoner asks him what the purpose of the medicine is and what effects it will have on her child. The doctor tells her that it is none of her business because the child is under his supervision. Does the mother have a right to ask these questions and expect an answer?





INTERNATIONAL TRAINING PROGRAMME



Made possible with the generous support of the European Union.
Any part of this publication may be freely reproduced provided the source is acknowledged.

Vulnerable Prisoners: The Mentally Ill and Developmentally Disabled in Prison

I. Introduction

Purpose: To state that in most cases, mentally ill people should not be in prison, and to demonstrate that the mentally ill and developmentally disabled are particularly vulnerable groups who should be given special consideration and attention when in prison.

Definition: *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 recognize 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, and schizophrenia.

Mental illness is different from *developmental disability*. Developmentally disabled persons have a sub-average general intellectual functioning and do not have the same understanding or awareness of their environment as others. In this Kit, the mentally ill and the devel-

opmentally disabled are collectively known as *mentally impaired*.

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.

Background: The issue of mental illness and developmental disability is important at two stages of the criminal process: 1) during the trial, when a determination is made as to the suitability of a prison sentence as opposed to transfer to a psychiatric institution; and 2) once the person is in prison, when a determination is made as to a proper treatment and/or medication for the prisoner. In the case of the mentally ill, it is important to note that a prisoner either can be mentally ill before imprisonment (and in some cases deemed not criminally responsible for his actions) or can develop psychological problems once in prison. In both cases, a lack of appropriate treatment will lead to increasing

difficulties during the period of detention and, in many cases, render a prison sentence a sanction likely to bring about long-term negative consequences rather than promote rehabilitation.

Finally, it should be noted that, in some countries, mentally ill persons are kept in prison even if they have not committed a crime. In these cases prisons are used as an alternative

either because suitable institutions do not exist or those that do exist have no space. Unless there is a grave and clear threat to public safety, this is inappropriate. Detaining non-threatening persons in prisons places them in an environment that is detrimental both to their personal safety as well as to their psychological and emotional well-being.

II. Objectives

- A. To show that special institutions or non-custodial measures will often be more appropriate for mentally ill and developmentally disabled offenders and to promote the use of such options whenever possible and appropriate;
- B. To improve understanding among prison staff of the difficulties faced by mentally ill and developmentally disabled prisoners and the specific psychological and behavioural problems that are likely to arise in working with this group; and
- C. To present specific measures that will improve the ability of prison officers to work with mentally ill and developmentally disabled prisoners.

III. Essential Principles

- A. At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality (*United Nations Standard Minimum Rules for the Treatment of Prisoners [SMR], Rule 22.1*).
- B. Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible (*SMR, Rule 82.1*).
- C. Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management. During their stay in prison, 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, Rule 82.2, 82.3, and 82.4*).
- D. Prisoners and all detained persons have the right to the highest attainable standard of mental health (*United Nations Principles for the Protection of Persons with Mental Illnesses and the Improvement of Mental Health Care, Principle 1.1 and Principle 20*).

- E. Prison personnel have a crucial role to play in the early detection of prisoners suffering from psychiatric ailments and a responsibility to advocate appropriate adjustments to be made to their environment (*European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 3rd General Report*).
- F. In those cases where the use of close confinement or physical restraint of mental patients cannot be avoided, it should be reduced to an absolute minimum. The risk of suicide should be constantly assessed both by medical and custodial staff. Physical methods designed to avoid self-harm, close and constant observation, dialogue, and appropriate reassurance, should be used in moments of crisis (*Committee of Ministers, Council of Europe, Recommendation 98.7, Paragraph 56, 57, and 58*).
- G. It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric after-care (*SMR, Rule 83*).

IV. Implementation

A. Two Distinct Problems

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. They should be able to distinguish between prisoners who are mentally ill and those who are *developmentally disabled*. The developmentally disabled have a low mental capacity that cannot be improved, while the mentally ill suffer from psychological distress that is not directly linked with intelligence capacity.

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.

Mental Illness

Mental illness is a term that describes a broad range of conditions. Generally speaking, a person can be described as having a mental illness when he experiences a significant and unintended interference with the performance of

major life activities, such as learning, thinking, communicating, and sleeping. The most common forms of mental illness are anxiety disorders, depressive disorders, and schizophrenia.

The type, intensity, and duration of the

symptoms of a particular mental illness vary from person to person. Also, individuals will often experience a mental illness in different ways over many years. Symptoms may come and go and do not always follow a regular pattern, making it difficult to predict when functioning will improve or worsen. Sometimes people with mental illness will need only occa-

sional support, while at other times they may require more substantial, ongoing support to cope with their condition. Although the symptoms of mental illness can sometimes be effectively controlled through medication and/or psychotherapy, for most people the illness continues to cause periodic episodes throughout their lives.

Developmental Disability

Intellectual ability varies widely from one person to another. Traditional intelligence evaluations have regarded intelligence as a capacity that can be measured on a single scale, such as the Intelligence Quotient (IQ). Recent research, however, has shown that intelligence is really more accurately measured as a multidimensional set of skills and aptitudes. These skills include problem solving ability, creativity, and emotional intelligence.

However intelligence is measured, it is clear that some individuals lack the mental aptitude to participate in day-to-day life as most others do. These people are developmentally disabled and may have difficulty and require assistance with activities other people find simple.

During arrest, prosecution, sentencing and detention, developmentally disabled people are vulnerable to exploitation and abuse. In many instances, they may not understand the scope or consequences of the offence with which they are charged and be unable to defend themselves adequately. In prison they are frequently abused, and exploited both by other prisoners and sometimes prison staff. It is important to remember that intellectually disabled prisoners are entitled to the same human rights guarantees of other prisoners. They will often require additional measures from prison staff to ensure that their rights are protected.

B. The Psychological Stress of Imprisonment

This section describes some mental health conditions that can develop in response to the psychological stress of imprisonment. When these conditions are severe, they may be considered mental illness.

Imprisonment affects each prisoner differently. Many factors, including overall well-being, mental health, and coping skills, contribute to the degree of stress that a person

experiences in prison. In general, prisoners tend to experience a lack of autonomy and control, a lack of social support, and a lack of meaningful activities. These experiences can lead to feelings of isolation, boredom, degradation, and powerlessness that can exacerbate existing psychological and behavioural problems and lead to new problems, including depression, anxiety, and a loss of self-esteem. Prisoners

who feel powerless may react with violence and rage.

Prison officials need to try to manage the prison environment in a way that does not exac-

erbate the stress and difficulties inherent to life in detention. When staff are well trained, they can detect these conditions early and help prisoners receive appropriate treatment.

Anxiety and Depression

Psychological problems often develop slowly and in an inconspicuous manner. In their initial stages, they may be hard to detect, but then grow quickly into more serious conditions. Anxiety and depression, in their many forms, are common early warning signs of deeper psychological disturbances.

It is very common for prisoners to feel helpless or overwhelmed by a sense of hopelessness during their time in prison. These kinds of

feelings can quickly magnify into depression, and depression is the leading cause of suicide.

Because they are difficult to observe, especially by non-professionals, anxiety and depression are difficult to diagnose. Some indicators, however, may be apparent to prison staff and others who are in frequent contact with detainees. These include sleep disturbances, mood swings, eating disorders, separation anxiety, and other unusual behaviour.



Additional Resources:

More information is available in English at:

<http://www.dbsalliance.org/> (Depression and Bipolar Support Alliance)

Aggressive or Unusual Behaviour

Aggressive or unusual behaviour is often an indication that a mental disturbance has increased in severity. Inmates, staff, and family members are most likely to observe or be subjected to the consequences of this escalation. Both aggressive

and unusual behaviour rest on a problematic psychosocial foundation. While managing such behaviour is not usually effective at resolving the underlying problem, it is important to protect the people who may be at risk of being harmed.

Suicide

In prison, the risk of suicide is significantly higher than among the general population. Prisoners may become suicidal at any time in their sentence. Personal developments that may contribute to a prisoner feeling suicidal

include separation from a wife or husband (or girlfriend or boyfriend), loss of a significant community resource, inmate pressure, illness, or other factors that impact the inmate's adjustment to imprisonment.

Example: Suicide in Prison, United States and UK

In the US, the suicide rate for prisoners is nine times that of the general population; in Great Britain, prisoners' suicide rate is six times higher than the general population.

It is very important that prison staff be familiar with warning signs of suicide, factors that contribute to suicide, and measures that can be taken in response.

Suicide is rarely a spur-of-the-moment decision. In the days and hours before people kill themselves, there are usually clues and warning signs.

Other common warning signs include:

- Becoming depressed or withdrawn;
- Behaving recklessly;
- Getting affairs in order and giving away valued possessions;
- A marked change in behaviour, attitudes, or appearance;
- Abusing alcohol or drugs; and
- Suffering a major loss or life change.



Additional Resources:

More information is available in English at:

<http://www.ncianet.org/> (National Center on Institutions and Alternatives)

<http://www.hipp-europe.org> (Health in Prisons Project)

<http://www.befrienders.org> (Befrienders International)

<http://www.mind.org.uk> (Mind: The Mental Health Charity)

C. Problems for Mentally Ill and Developmentally Disabled Persons in Prison

Prisoners suffering from mental illness and developmental disability are more vulnerable than other prisoners. They often find it more difficult to deal with the rules imposed in prison and find that the prison environment creates additional stress and anxiety for them. In most cases, detention only worsens their state of

mental health. For this reason, prison is usually not the most appropriate place for the mentally ill and developmentally disabled. A transfer to a psychiatric hospital or to a non-custodial programme designed to treat such cases should be explored as soon as possible.

Abuse by Other Prisoners

People with mental illness or developmental disability (the mentally impaired) are more likely to be physically, emotionally, or sexually abused in prison.

- Mentally impaired prisoners may be beaten up by other prisoners because their behaviour appears strange.
- Mentally impaired prisoners are much more

likely to be raped. Their offenders are aware that because of their mental weakness, they will be less likely to complain to prison officers. At the same time, prison officers may not believe mentally impaired prisoners due to their unpredictable behaviour.

- They can be manipulated, coerced, either because they are not able to defend themselves or because they do not understand that the situation is not normal. They can be

persuaded that violations of rules are acceptable, including being convinced to transport drugs and commit other crimes without realizing the consequences of their acts.

- Medication that is used to treat mental illness has a strong effect on the mind and body, and can cause physical weakness. Anti-psychotic medication, for example, can slow down the reaction time of a prisoner who is already vulnerable to abuse.

Threat to Themselves

Mentally impaired prisoners are sometimes unable to control their behaviour.

- Mentally ill prisoners are at an increased risk of suicide.
- Mentally impaired prisoners are more likely to have violent reactions. During crises, they can easily hurt themselves or others.
- Mentally impaired prisoners are more likely to be isolated, to stay apart from social activities organised in prison, and to refuse to talk to guardians or cell mates about their problems. They are rarely part of a group that could protect them against other prisoners.

- Mentally impaired prisoners may not realise how important certain acts may be for their release. They may refuse, for example, to ask for probationary release because they do not realise it might help them get out sooner.
- Mentally impaired prisoners may refuse to take their medication.
- Developmentally disabled prisoners are eager to appear competent. Although they often do not understand orders or prison regulations, they pretend to understand because they do not want to disappoint people.

Difficult Relationships with Prison Staff

The way officers ensure security, such as the use of force to make a prisoner get out of his cell, can be counter-therapeutic for mentally impaired prisoners. Controls or physical searches should be limited to what is genuinely necessary for security reasons.

- Mentally impaired prisoners are particularly vulnerable to abuse of authority by prison officers. Prison officers may pretend to ignore the particular needs of these prisoners.

- Prison officers sometimes understand the silence of mentally impaired people to mean approval and comprehension. Their silence or their lack of comprehension should not be used as an excuse to make them do difficult or unpleasant tasks.
- Because he does not deny the facts and because the other prisoners may agree to say that he committed the fault, prison officers may punish a mentally impaired pris-

oner more often. Other times they may punish this prisoner to set an example, knowing he will not complain.

- Although they are often more vulnerable, mentally impaired prisoners may also be

aggressive and manipulative. This duality may help to explain why prison staff often have difficulty dealing with mentally impaired prisoners.

D. Guidelines for Prison Staff in Dealing with Mentally Ill and Developmentally Disabled Prisoners

There are several basic principles that should be respected in order to avoid difficult or dangerous situations with mentally impaired prisoners.

- *Human Rights*: Mentally ill and developmentally disabled prisoners have the same human rights as all other prisoners. While they are sometimes more difficult to cope with, they should not be isolated or treated more harshly than other prisoners.
- *Diagnosis and Labelling*: It is essential for prison staff to distinguish between a prisoner who simply refuses authority and one who is mentally ill or has a developmental disability that limits his ability to understand or comply. This is often difficult and a medical officer with experience in psychiatry should be consulted whenever possible.
- *Communication*: Mentally impaired prisoners may have difficulties understanding those around them, including explanations of rules and regulations. Avoiding the use of complex language, using examples and demonstrating tasks to illustrate and clarify is also helpful. Prison officers should become familiar with the particular difficulties of individual prisoners, and should carefully explain what is required of them. A lack of understanding should not be assumed to be a refusal to comply.
- *Punishment*: It should be the role of a medical officer to assess if a prisoner is fit to undergo punishment. Inappropriate reactions can be fatal. Isolation cells, for example, are inappropriate if the prisoner is suicidal.
- *Substance Abuse*: Mental problems may be the result of drug addiction. See Resource Kit I-E.4, Dealing with Drug and Substance Abuse, for more information.
- *Suicide*: Threats of suicide should always be taken seriously.
- *Crises*: During a crisis or disturbance within the prison, mentally ill prisoners need special care due to their difficulties with instability, confusion, and perceived risk. Procedures should be in place to ensure that someone takes the time to explain to these prisoners what is going on.
- *Training*: Prison staff should be given special training in basic techniques for caring for mentally ill and developmentally disabled prisoners. They should be given basic information about mental illnesses.



Additional Resources:

More information is available in English at:

http://abcnews.go.com/sections/wnt/WorldNewsTonight/wnt010130_mentallyill_prison_feature.html (ABC News)

<http://prisonmentalhealth.org> (Mental Health Primary Care in Prison, UK)

<http://www.arcnj.org/ddop.html> (The Developmentally Disabled Offenders Program)

<http://www.soros.org/crime/MIRep-main.htm> (Open Society Institute Criminal Justice Initiative)

<http://www.correctionalassociation.org/PMHP/Description.htm> (Prison Mental Health Project)

IV. Issues for Discussion

- A. The condition of prisoners who suffer from psychiatric disorders is likely to worsen in prison, and other prisoners are likely to develop disorders after arriving in prison. Considering that the large majority of them will be released eventually, what are the consequences in terms of public safety? What are the chances that they will commit another offence?
- B. People suffering from panic disorders may be so anxious that they are unable to work or perform daily activities. Do you think it is appropriate to confine them in isolation cells because they do not respect prison regulations?
- C. Psychological problems are not well understood in society as a whole and even less so in the 'tough' prison environment. Both other prisoners and prison staff often consider such problems to be a sign of weakness. How can this type of attitude be overcome?
- D. A significant proportion of those who are in prison are petty offenders. They present a problem for the law-abiding members of the community but are not considered to be major criminals. Many of these individuals suffer from some form of mental disorder. Sometimes this is a result of drug or alcohol abuse. How can prison staff be trained to cope with such people?
- E. Prisoners should be treated without discrimination. Do you think that allowing a particular prisoner to take an extra shower because he suffers from obsessive compulsive disorders would breach this equality? What about taking five extra showers? How can the needs of the general prison community be balanced with the individualised care needs of the mentally impaired?
- F. People suffering from mental illness are often not aware that they have a problem. Do you think they should be forced to take their medication?

VI. Case Studies

- A.** A prisoner is admitted late one evening. He gives every appearance of being suicidal. The medical officer has gone home and cannot be contacted. What actions should the staff take to ensure that the prisoner does not harm himself during the night?
- B.** 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 prisoners who have some form of mental impairment. How can the prison director ensure that these prisoners receive the medical and psychological care that they need?
- C.** You hear a lot of noise coming from the showers. When you arrive all prisoners are quiet except one who is screaming and throwing things. They all tell you that he started this episode of anger alone and without any reason. What will you do? One of the prisoners then tells you that he was provoked. Will it change your behaviour?
- D.** A prisoner refuses to feed himself. You notice that he eats when nobody is around. He will not be able to see a psychiatrist for at least another month. What will you do? What kind of problem might the prisoner have?



INTERNATIONAL TRAINING PROGRAMME



Made possible with the generous support of the European Union.
Any part of this publication may be freely reproduced provided the source is acknowledged.

Vulnerable Prisoners: Foreigners

I. Introduction

Purpose: To demonstrate that foreigners in prison are a vulnerable group requiring specific supports and considerations to counter the constraints and difficulties faced by detention abroad.

Definition: A *foreigner* is a person belonging to or owing allegiance to a foreign country. A foreigner in prison is one who is not native to or naturalized by the country or jurisdiction within which he is being detained. Persons who do not have the nationality of their country of origin but have lived there for a long time and are planning to return after release can also be included in this category.

Vulnerable prisoners are those who, by their inherent nature or present situation (such as age, gender, religion, ethnicity, health, language, nationality, and legal or political status) face increased risk to their safety, security, or well being as a result of imprisonment.

Background: There are two categories of foreign detainees. The first consists of those who

have never lived in the country in which they are detained; these persons have often been arrested at the border for charges such as illegal immigration or drug trafficking. The second category consists of those who have been living for a long time in the country in which they are detained. These people may have lost touch with their country of origin or may not desire to go back for other reasons.

Though their specific situations vary, foreigners' language, culture, and customs are often different from those in the prisons in which they are being held. These differences can severely restrict these prisoners' ability to communicate with other prisoners and staff, and so limit their participation in the social and intellectual life of the prison. Foreigner prisoners also face difficulties communicating with the outside world. They may have trouble communicating with their families, legal representatives, diplomatic representatives, or local agencies that help prisoners. They are also often targets for discrimination and persecution by prison staff and fellow prisoners.

For all of these reasons, isolation, depression, and anxiety are common among foreign prisoners. In some cases, these feelings can increase because of fear of deportation upon completion

of any prison sentence, a situation which can be especially stressful if a prisoner has family members in their resident country. Most foreigners in prison have to live with considerable uncertainty.

II. Objectives

- A. To promote awareness that foreigners are vulnerable persons who are likely to face increased difficulties and discrimination in prison;
- B. To improve understanding of the specific rights to which foreigners in prison are entitled; and
- C. To increase the ability of those responsible for the care of foreign prisoners to address difficulties that are likely to arise during the detention of foreigners.

III. Essential Principles

- A. No State shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture (*Convention Against Torture, Article 3*).
- B. 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 (*Standard Minimum Rules for the Treatment of Prisoners [SMR], Rule 6.1 and 6.2*).
- C. If foreign prisoners do need to be kept in detention, prison officials should be aware of the special hardships they are likely to encounter in prison.
- D. Prison officials have a special responsibility to ensure that foreign prisoners have adequate contact with outside world (*The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders Annex II Recommendations on the Treatment of Foreign Prisoners, Rule 8*).
- E. Differential treatment shall be considered legitimate when it is a just and reasonable consequence of the sentence, when it is justified by well-founded knowledge and experience, when it seeks to improve the personal or social position of the prisoner and when it is informed by a high degree of tolerance and understanding.
- F. Prisoners who are non-nationals shall be allowed reasonable facilities to communicate with appropriate diplomatic representatives (*SMR, Rule 38*).
- G. Prison authorities shall inform foreign prisoners about their right to contact their embassies and/or consulates and their right to oppose action on their behalf by their consular or diplomatic representatives (*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 16*).

H. Prisoners who are nationals of states without diplomatic or consular representation in the country or refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic represen-

tative of the State which takes charge of their interests or any national or international authority whose task is to protect such persons (*SMR, Rule 38.2*).

IV. Implementation

A. Considering Alternatives to the Detention of Foreigners

Transfer of Foreign Prisoners

Whenever possible, if he so desires, a foreign prisoner should be transferred to his home country to serve his sentence, which is possible

under international law when both countries are signatories to a relevant prisoner transfer treaty.

Example: Transfer of Prisoners, Europe

The European Council Convention on the transfer of sentenced people has fixed rules on the transfer of foreign prisoners. A foreigner may, within limits, choose where to serve his sentence. It is essential to obtain the consent of the foreigner, that of the State where the person has been condemned, and that of the State where the foreigner is coming from. A foreigner must be a national of the state he is asking to be transferred to, he must be condemned with no opportunity to appeal, and his sentence must be more than 6 months at the time he is asking to be transferred. Finally, the offence for which the foreigner has been condemned must also be an offence in his State of origin.

Where a prisoner's basic human rights (such as the right to Due Process, the right not to undergo Double Jeopardy, and the right to be free from torture and ill treatment) are threatened, international law dictates that he not be forced to return to his home country. See Section I on 'Special Concerns for Asylum Seekers and Refugees' below.

An additional circumstance in which a foreign prisoner may not want to be sent back to

his home country is when he has lived in the country of sentencing for a long time. In such cases, even though the person may be technically a foreigner, lacking full citizen status in that country, sending him to his country of origin may constitute a form of particularly harsh punishment. See Section J on 'Special Concerns for Long-term Foreign Residents' below.

Disproportionately Severe Punishment

For foreigners, imprisonment often results in disproportionately severe punishment: in addi-

tion to the deprivation of their liberty, they suffer the 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 may be severely restricted, and they are likely to have difficulty maintaining contact with their families, adversely affecting their re-integration upon release.

Criminal justice systems and courts in particular should be aware of the additional and

compounded problems which a foreign prisoner may experience and take this into account when sentencing. Prison authorities should similarly take into account when managing prisons the issues facing this significant segment of many prison populations. When no alternative to imprisonment is possible, the following are measures that can alleviate the difficulties of foreign prisoners.

B. Reducing Language Barriers

Language creates the most severe barrier encountered by foreign inmates. A prisoner who does not understand the language spoken will have difficulty conforming to rules or with individual orders given by staff. He may also often be unaware of his rights and of the facilities and services available to him.

Upon his arrival, a foreign prisoner should be made aware of all aspects of the prison regime, including his rights and the prison rules and regulations, in a language he understands.

Access to legal assistance, complaint mechanisms, and counselling services should be facilitated in a language the detainee understands. Depending on the background of the detainee, special accommodation, special diets, and access to religious representation should be made available, also in a language the detainee can understand. He should be allowed to use his own language during prison visits and in written and spoken correspondence.

C. Accommodating Religious Belief

It is necessary to respect the religious beliefs and moral precepts of all prisoners. Most religions have specific practices that have to be observed. These may include:

- Opportunities to pray or attend services at set times and under certain conditions;
- Dietary restrictions, such as not eating any

meat, not eating particular meat, and only eating food prepared under specific conditions; and

- Dress requirements or customs about hair length.

Prison regimes can and should be flexible about accommodating such practices.

D. Preventing Abuse and Fear

Creating an Open Environment: As discussed above, because of their physical, linguistic, and cultural isolation during detention, they are far

more likely to be the victims of harassment, violence, sexual exploitation or sexual abuse by fellow prisoners and staff. Foreigners are both

more likely to suffer abuse as well as be more restricted in what they can do about it. Due to their isolation and fear—including fear of deportation (see Sections I and J below)—foreign prisoners are very often reluctant to express complaints about bad treatment in prison. Attention must be taken to create an open, unthreatening environment for all prisoners, in order that abuse not be allowed to take place. Staff need to be made aware of the issues that are likely to arise and to give prisoners real opportunities to raise their concerns.

Involving Outsiders: Translators or other impartial outsiders, such as voluntary organisa-

tions, can be particularly helpful in creating a setting within which foreign prisoners feel comfortable voicing their concerns. Such people should be brought in on a regular basis to facilitate communication with foreign prisoners about concerns and complaints that they might be too frightened to make in another setting.

Translating Complaint Policies: Foreign national prisoners need to have complaint procedures available in their own language, in translation. Prison staff must not be obstructive in making foreign national prisoners know and pursue their rights.

E. Ensuring Equal Access to Resources

Access to Alternatives to Imprisonment

For foreigners who have committed minor crimes, who are not dangerous, and who are in the country legally, non-custodial options might be appropriate. They should have equal access

to such options and should not be discriminated against simply because they are not full citizens of the country where they have been detained.

Access to Basic Supplies

In some countries, prisoners rely on deliveries from outside the prison to supply basic necessities, such as food, blankets, and clothing. Relatives, friends, or other acquaintances bring in these goods during visits and may virtually replace the government as the provider of basic necessities. Foreigners, who have limited personal connections outside the prison, may be forced to perform labour tasks in order to obtain these items

that are necessary simply to survive. When paid and reasonable jobs can be provided within the prison (such as prison maintenance tasks or food preparation), staff should consider giving priority to foreign prisoners, who may be especially needy of extra income. For prisoners who lack connections in the outside world, staff can stock up basics necessities such as clothes, shoes, and toiletries, and distribute them to prisoners in need.

Access to Legal Aid

Because they are often unfamiliar with the judicial system, speak a different language, and lack financial and personal resources, foreign-

ers often lack adequate legal representation and advice. They may not know to ask, or know how to go about asking, to be granted discre-

tionary release, such as remission or parole.

Legal advice for foreigners should be available on an equal basis as for national prisoners. An interpreter will often be necessary. In addition, given their particular legal status, foreign national prisoners need to be informed about

specific laws and procedures relevant to their case. Appropriate and timely legal aid is especially important in cases involving refugees or other persons not wanting to be transferred to their home country. See Sections G and H below.

F. Communicating with Families and Community Agencies

The Problem of Isolation

Foreign prisoners are often in unfamiliar places, cut off from their families and friends. Cultural differences may pose special hardship and emotional confusion for foreigners. Foreign prisoners' contact with the outside world is often greatly reduced. Family visits and communications, if possible at all due to geographic, political, and economic constraints, are rare. Communication is usually very costly as well. For all of these reasons, psychological problems of isolation, frustration, anger, depression, and a

sense of abandonment are common among foreign prisoners. These feelings may manifest themselves as aggression, withdrawal, or self-destructive behaviour, including maiming, self-mutilation, and even suicide. Most prisoners experience some degree of isolation while in detention, but foreign nationals are even more isolated than prisoners in their own country, and foreign women are significantly more traumatised by this aspect of detention, as are nomadic groups such as Roma people, for example.

Contacting Family and Friends

The psychological hardship of separation from loved ones can be prevented by providing more opportunities for visits and correspondence. Because of foreigners' special circumstances, it will be necessary to make rules about visits and correspondence more flexible. Visitors who have travelled long distances to visit prisoners should be allowed longer visits. They may need assistance in paying travel costs, a place where

they can bath and wait until the visit takes place, a place where child care can be provided, and assistance in finding overnight accommodation.

When visits prove to be impossible, telephone communication becomes especially important and can serve as a substitute to physical contact. Within reason, telephone time should be made more flexible for foreign prisoners and in some instances subsidised.

Communicating with Fellow Foreign Nationals

To alleviate isolation, foreign prisoners should be encouraged to communicate with other persons of the same nationality, language, religion or culture. Such communication can be encour-

aged by permitting prisoners from similar backgrounds to work, spend their leisure time, or exercise together.

Learning the Local Language

Whenever possible, foreigners unfamiliar with the language of the country should be encouraged to learn it. Language classes should be made available to prisoners free of charge.

Contacting Organisations

Communication between foreign prisoners and organisations who help prisoners should be facilitated. Community service agencies, international humanitarian organisations (such as the International Committee of the Red Cross), and local NGOs should all be allowed and encouraged to visit and assist foreign prisoners. Probation and social service agencies, after-care and welfare organisations (both in the country of detention and in the prisoner's home country) can assist foreign prisoners and prepare them for reintegration after release. Prison administrations can often benefit greatly from the services provided by voluntary and non-governmental agencies, as these services enable prisoners to channel complaints and meet needs the prison itself is unable to provide. Prisons can refer foreigners to local organisations who provide counselling, aid, and support through visits and other forms of contact.

Example: NGO for Foreign Prisoners, UK

The British NGO Newbridge uses volunteers to provide support for foreign prisoners detained in British prisons. Newbridge offers an advice service, six weekly social and cultural group meetings, interpretation and translation services, individual counselling, weekly home visits, and overall friendship and support to inmates. The organisation also aims to promote racial awareness and understanding within prisons. Their experience has shown that foreign nationals need assistance to understand the legal and prison systems and the conditions of their own sentence. Contact and communication in their own language is beneficial not only on a social level, but is also necessary for dealing with practical issues such as hospital visits, locating property lost in transit or at arrest, and contacting their consulates.

Some national governments have agencies that foreign prisons. aim to protect and help its citizens being held in

Example: Government Programme, UK

The volunteer organisation Prisoners Abroad brings support to Britons imprisoned in other nations by providing money for essential goods and supplies, vitamins where essential to health, and emergency medical care. They also provide support for the foreign countries' criminal justice systems and for family members of the imprisoned person.

G. Promoting Reintegration**Supplying Reading Material**

Every prison should have a library for the use of all prisoners. It should be adequately stocked with both recreational and instructional books, and prisoners should be encouraged to make full use of it. Prison libraries need to be aware of the special needs of prisoners who do not speak the main language of the institution.

Where possible, foreigners should be given access to reading material (such as books, magazines, newspapers) in their own language. Libraries outside the prison, consular services, and other organisations may be able to provide materials in other languages.

Providing Education and Training

Educational and vocational training are important parts of all prisoners' re-socialisation pro-

gramme. Foreign prisoners should have equal access to such programmes.

Allowing Prison Leave

Foreign prisoners should be given equal consideration for non-custodial sentencing options,

such as prison leave and other authorized time out of prison.

Example: Probation Service, The Netherlands

The Dutch Probation Service is a liaison unit between Dutch prisoners abroad and probation assistance in the Netherlands. The agency closely cooperates with the Dutch Embassies, consulates, and the foreign ministry. This agency provides information for prisoners' family and friends and keeps in contact with Dutch prisoners through correspondence and visits by Dutch volunteers. It also provides information about criminal justice systems in different countries and makes social enquiry reports for trial, early release, and transfers. The Dutch Probation Service also facilitates prisoners' education in foreign prisons with the help of study coaches from the Netherlands.



Additional Resources:

More information is available in English at:

<http://www.thenewbridge.org.uk> (New Bridge Prison)

<http://www.egpa.com> (European Group for Prisoners Abroad)

<http://www.coe.fr> (European Council)

<http://www.prisonersabroad.org.uk> (Prisoners Abroad)

<http://www.hrw.org/advocacy/prisons/> (Human Rights Watch)

Human Rights and Prisons, Office of the High Commissioner for Human Rights, Chapter 23, December 2000.

More information is available in French at:

<http://www.fil.asso.fr/> (Français Incarcérés au Loin)

H. Facilitating Contact with Diplomatic Representatives

It is essential that prisoners be able to contact their consulates as soon as they enter custody. They should be informed without delay of their right to request contact with their consular authorities, to obtain legal assistance, and to access relevant information regarding their status. Consular officers have the right to visit an imprisoned national, to converse and correspond with him, and to arrange effective legal representation.

Consulates may be able to provide important services for foreign prisoners throughout their sentence. The European Council, for example, recommends that consular authorities regularly visit prisoners, offer assistance con-

cerning a prisoner's family relations, provide literature and other reading materials, and make sure that their contact information and services are well known to all prisoners.

In breach of international law, foreigners are often not informed at the time of their arrest about their right to obtain advice from their consulate. In many cases, language differences, a lack of understanding about court procedures, and an inability to access legal resources can have a devastating impact on the outcome of a foreigner's trial. In some cases, failure to inform prisoners of their right to consular aid has led to the imposition of the death penalty.



Examples: Contact with Consulate, United States, Saudi Arabia

In 2001, Germany brought an action before the International Court of Justice against the United States because two of its citizens executed in early 1999 had never been informed of their right to consultation. Similar concerns have also been raised in Saudi Arabia.

Different nations have different levels of resources available for their nationals in foreign custody, however, and prisoners from some countries will not be able to contact their government. In addition, some prisoners will not

wish to make contact with their home countries because they fear persecution or mistreatment if they return or are tried there. These wishes should be respected as far as possible.



Additional Resources:

More information is available in English at:

UN Commission on Crime Prevention and Criminal Justice, Tenth Session, Vienna, 8-17 May 2001.

Special Rapporteur of the Commission on Human Rights on Extra-judicial, Summary or Arbitrary Executions, Addendum 1, paragraph 213, 1999.

Council of Europe, Recommendation Number R.84 12 on Foreign Prisoners, adopted 21 June 1984.

I. Special Concerns for Asylum Seekers and Refugees

International standards state that, when they have not committed any crime, people seeking asylum should generally not be detained. This rule arises out of the fundamental obligation, under international law, of all governments to protect asylum seekers. The most basic obligation of governments is to avoid forcing asylum seekers to return to their home country, if doing so would expose them to persecution or danger, which is often the case. This notion is expanded and clarified in the United Nations High Commissioner of Refugees (UNHCR) Guidelines, which note that detention should not be used as a punitive or disciplinary measure, and that detention should not be used as a means of discouraging refugees from applying for asylum.

When asylum seekers are held in detention, however, the following conditions must be met:

- Screening to identify trauma or torture victims, for treatment, must take place.

- Separate detention facilities should be used to accommodate asylum seekers.
- Men and women, and children and adults, should be segregated from each other (but not from their relatives).
- Particularly vulnerable categories of refugees, such as pregnant women, nursing mothers, children, the aged, the sick, and handicapped should benefit from special measures which take into account their particular needs.
- Regular contact and visits from friends, relatives, and attorneys must be arranged.
- Medical treatment and psychological counselling, where appropriate, should be available.
- Detainees should have the ability to engage in religious activities (including diet), recreational activities, and have access to educational and vocational activities.

- Detainees have the right to live in humane conditions; asylum seekers should never have their physical safety endangered and should never be accommodated with common criminals.
- Detainees have the right to full communication of any order of detention, together with the reason for the order, in his language.
- Detainees have the right to be informed of the right to legal counsel.
- Detainees have the right to have the decision to detain reviewed.
- Detainees have the right to effective access to UNHCR and other appropriate agencies.

J. Special Concerns for Long-term Foreign Residents

In some countries (such as the United States and France), immigration law requires people to be deported at the end of their sentence, regardless of how long they have been residents. In some cases, prisoners are sent back to their 'home' countries, to which they have few or no ties and sometimes do not speak the language. In other cases, these prisoners' home countries have not wanted to take them back, causing some people to be held in prison indefinitely.

Although this problem is primarily a judicial and legal issue, prison administrators should be aware of the situation. Appropriate, timely legal aid is especially important for these prisoners. They need to be aware of the long-term effects when pleading guilty to charges or entering into a plea bargain. They also need to know their full legal rights and under what circumstances they can appeal their deportation.

K. Role and Training of Prison Staff

It is essential that prison staff understand that foreign prisoners are vulnerable, and that they pay special attention to indications of difficulty or stress among this group. Prison staff must understand that the dynamics of each situation are unique and require individual solutions. In most cases, dealing with problems carefully and with sensitivity will contribute to easing the stress. In other cases, access to specialist or expert assistance is needed.

Working with foreign inmates often requires the ability to speak a different language. However, even staff who do not speak this language can make an important difference

by showing a willingness to learn about a prisoner's individual background, culture, belief, behaviour, and attitude. Listening will help staff better understand a prisoner's experience and prevent prejudiced attitudes from arising.

Where there are sizeable populations of foreign prisoners, it is a good idea that someone be made specifically responsible for giving assistance and information to this group, ensuring equality of opportunity and treatment, liaising between foreign prisoners and prison staff, and serving as the main point of contact for interested community agencies outside the prison.

Example: Foreign Prisoners Co-ordinator, UK

The governor has appointed a Foreign Prisoners Co-ordinator whose role is to establish a policy on foreign national prisoners and a strategy to implement it. The position of 'Foreign Nationals Orderly' has been established with time, access and access privileges to identify, assist and work with other foreign national prisoners, and the policy has so far been a success.

V. Issues for Discussion

- A. The prohibition against discrimination does not imply that important differences of religious or moral persuasion shall go unrecognised. A distinction must be made between discrimination and providing for the differences between individuals. How can a prisoner's origin, special beliefs, needs, or limitations be taken into account so that such vulnerable prisoners are provided protection?
- B. All appropriate considerations should be given to using non-custodial measures for foreign offenders. In which cases is it possible and important to avoid detention for foreigners?
- C. Legal provisions may include automatic detention of asylum seekers and refugees. What do international standards say about this issue? Which specific protections should be accorded to detained asylum seekers or refugees?
- D. The International Committee of the Red Cross (ICRC) often takes on the responsibility of assisting foreign prisoners in countries where these prisoners have no permanent diplomatic or consular representation. Why is the role of this organisation so necessary and essential for this category of prisoners?
- E. What are other organisations or means of helping foreign prisoners if there is no consular representation and the ICRC is not available to help?
- F. If it is very difficult for foreign prisoners to communicate with their country or family, what arrangements can be made for them to have contact with people from their own country and culture?

IV. Case Studies

- A. A young foreign woman has been sent to the women's section of your prison. She has been tried and convicted of prostitution and drug offences. She is very quiet and appears not to speak any language known to anyone else in the prison. Though her records indicate that she is 18 years old, she says that she is only 13. You frequently find her alone in corner of her cell crying. She is very weak and rarely eats the food she is provided. Which legal, medical or social assistance should be provided to her?
- B. A Nigerian mother has two small children, one of whom was born in prison and has been detained in your prison for over three

years. While she speaks some English, she talks to her children in a local language and there appears to be a great deal that she doesn't understand. She has been tried and convicted of drug smuggling, though she shows no signs of addiction. Though she is generally attentive to her children, there are long periods where she appears to ignore them completely. Efforts to contact the Nigerian Embassy have been fruitless. Which kind of harassment is this foreign woman likely to encounter? What are her special needs? How can they be met?

- C.** A male prisoner who claims to have been a university instructor in his home country came to your country to attend a professional seminar and has been in your prison for over two years. He was tried and sentenced for immigration and drug offences, including smuggling, but has appealed the verdicts. He shows no signs of addiction but has befriended other prisoners from his region who are also charged with drug offences. He has become very aggressive in the past year, especially as his attempts to contact his home government, university, and family have resulted in failure. His English is very good and he reads and writes extensively. He recently assaulted a prison guard who was supervising a cleaning detail of which he was a part. The resulting disruption caused injuries among both prison

officers and prisoners. What, in your opinion, are the root causes of his aggressive behaviour? How could he get help contacting his home government and family?

- D.** Your prison is holding a foreign prisoner who speaks only his own language. He neither sends nor receives letters. Through an interpreter he asks to make a monthly telephone call to his family abroad. He is willing to pay from his own resources. Bearing in mind the right to contact with family, what should be decided?
- E.** A female prisoner who is a foreign national is serving a long sentence for drug offences. She can only write in her own language. Prison regulations require that all correspondence be screened for security reasons, but no one is available to translate to or from her language. The woman wants to write and receive letters from her family. What arrangements should the prison authorities make to allow her to do so without threatening the security of the prison?
- F.** 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.



INTERNATIONAL TRAINING PROGRAMME



Made possible with the generous support of the European Union.
Any part of this publication may be freely reproduced provided the source is acknowledged.

Vulnerable Prisoners: Minorities and Indigenous Peoples

I. Introduction

Purpose: To demonstrate that minorities and indigenous people are vulnerable prisoners who may face discrimination and difficulties that merit special consideration, and to discuss techniques to promote the well-being of minority and indigenous prisoners.

Definition: *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.

A minority is a group that is smaller in number than the rest of the population of a State and whose members being nationals of that State, have ethnic, religious, cultural practices, or linguistic features different from those of the majority of the population. Many minorities struggle to safeguard their culture, traditions, religion and language.

Indigenous peoples are those who, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territo-

ries, consider themselves distinct from other groups now prevailing in those territories. They tend to be non-dominant in political affairs and are determined to preserve and transmit to future their ancestral traditions and ethnic identity.

Discrimination means the imposition of disadvantage upon individual prisoners or groups of prisoners on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Background: Discrimination against ethnic, linguistic, religious, and sexual minorities occurs in many aspects of different societies. In the criminal justice system, members of minority and indigenous groups may be discriminated against during arrest, bail hearings, charging decisions, and sentencing. Members of these groups face more frequent prosecution, unfair trials, and disproportionately severe sentences, including sometimes the death penalty.

In prison, ethnic minorities tend to be over-represented. The organisational structure of a

prison may be itself discriminatory individual members of the prison population, management or staff may discriminate. Minorities may be discriminated against actively or passively, including physical, linguistic, or cultural isolation or through physical abuse or harassment. Discrimination in prison can be combated by

systematically raising awareness and promoting tolerance among staff and prisoners. Prisons need to take care to recognise the special needs of minority and indigenous groups. The special considerations should not be seen as preferential treatment but rather are necessary to ensure fairness for everyone.

II. Objectives

- A. To demonstrate that persons from minorities and indigenous groups are likely to face discrimination and difficulties in prison;
- B. To explain that because people from minorities and indigenous groups should sometimes be given special consideration for non-custodial sanctions because of the increased difficulties they are likely to experience in prison;
- C. To explain the rights of minorities and indigenous peoples as they relate to the rights of all prisoners under international standards; and
- D. To present measures that protect these groups and create a more diverse and tolerant prison environment.

III. Essential Principles

- A. Everyone is entitled to all the rights set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (*Universal Declaration of Human Rights, Article 2*).
- B. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance (*Universal Declaration of Human Rights, Article 18*).
- C. These principles shall be applied to all persons within the territory of any given State, without distinction of any kind, such as race, colour, sex, language, religion or religious belief, political or other opinion, national, ethnic or social origin, property, birth or other status (*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 5*).
- D. In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own reli-

gion, or to use their own language (*International Covenant on Civil and Political Rights, Article 27*).

- E. ... States [agree to] undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: the right to equal treatment before the tribunals and all other organs

administering justice; and the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution (*International Convention on the Elimination of All Forms of Racial Discrimination, Article 5*).

- F. Access to a qualified representative of any religion shall not be refused to any prisoner (*United Nations Standard Minimum Rules for the Treatment of Prisoners, Rule 41.3*).

IV. Implementation

A. Confronting Discrimination

In almost every country, the criminal justice system falls most heavily on minorities (or, in certain countries, those groups who are politically under-represented despite being numerically superior). Minorities are significantly over-represented in prisons around the world.

The over-representation of certain groups in prison points to economic, cultural, and political tensions that society has failed to address. In prison, problems of the larger society are played out both between individuals and in the institution as a whole. Entire systems fail to deliver justices to certain groups because of their difference from the dominant group.

Examples: Minorities in Prison, Various Countries

In Romania, the Roma make up around 5 to 6 percent of the total population and around 17 percent of adults in custody.

In Bulgaria, the Roma represent an average of 60 percent of prisoners.

In Australia in 1997, Aboriginal peoples made up only 2 percent of the overall population, yet they represented almost 19 percent of the prison population. In most states, there were ten to twenty times as many Aboriginal peoples in prison as non-Aboriginal peoples.

In the United States, relative to their populations, there are seven times as many minorities as whites in prison.



Additional Resources:

More information is available in English at:

<http://www.homeoffice.gov.uk> (UK Home office)

<http://www.nacro.org.uk/services/criminal.htm> (NACRO)

<http://www.aic.gov.au/conferences/indigenous/friebe.pdf> (National Centre for Aboriginal and Torres Strait Islander Statistics, NT)

<http://www.sentencingproject.org/> (The Sentencing Project)

<http://list.web.ca/archives/innu-l/2001-September/000000.html> (Canada Indigenous Bar Association)

<http://www.igc.org/ncia/KEY.HTML> (National Criminal Justice Commission)

Sorin Cace and Cristian Lazar, *Discrimination against Roma in Criminal Justice and Prison Systems in Romania: Comparative Perspective of the Countries in Eastern and Central Europe*, PRI, 2003.

B. Considering Alternatives to Imprisonment

Non-custodial measures are often more appropriate solutions for all offenders. For vulnerable prisoners in particular, however, they should be given special consideration. Because those from minority and indigenous groups are likely to face increased hardship and suffering in prison, all options that do not involve prison—such as community service, fines, or probation—should be explored first for these groups.

In addition, non-custodial measures may be especially useful in promoting understanding

between groups. They may also aid in minorities' overall integration into society. Where no specific alternatives to imprisonment programmes have been established, prison systems can still be flexible and accommodate the needs of these groups in order to ensure that their suffering is not disproportionate to that of others. For instance, prisoners may be transferred to centres nearer their families and communities, or longer visiting hours may be set up for visitors who have travelled a long distance.

C. Measures to Reduce Discrimination

Minority prisoners' cultural identity may involve differences in appearance, language, behaviour, food, religious beliefs, and social practices from those of the dominant prison group. These differences can create tensions among prisoners

and between prisoners and staff if not properly addressed. Below are various measures prisons can adopt in order to address differences among prisoners and prevent discrimination.

Accepting Sexual Difference

Sexual minorities-people who are gay, lesbian, bisexuals, and transgendered-are a vulnerable minority in prisons. Although they may share the same language, religion, and culture as the majority culture, they are often discriminated against by both members of majority and minority communities. Sexual minorities may face sexual assault, violence, isolation, and humiliation.

Prison staff should be aware of the threats faced by these groups. These prisoners need to be treated with respect for their human dignity.

They should not be discriminated against because of their sexual preference, but should have the same access to adequate housing, food, legal aid, education, exercise, and work as other prisoners. Sexual minorities should be protected against abuse by other prisoners whenever necessary. Victims should not be forced to suffer isolation or lack of exercise because of threats of violence by other prisoners. Isolation does not protect them, but rather makes them more vulnerable.

Language: Respecting Difference and Overcoming Barriers

Prisoners who do not speak or understand the majority language need to have their rights and the rules and regulation of the prison explained to them so that they understand. Where instructions are given and there is a chance that members of a minority group will not understand, careful efforts should be made to explain the instructions in such a way that all prisoners understand and can obey the rules.

Minorities should be allowed to speak, use, and study their own language and should never be penalised for using it. Language classes in the majority language should be offered whenever possible, in order to facilitate their adjustment in prison life and in society upon release.

Respecting Appearance

Differences in appearance, such as hairstyle or mode of dress, should be respected whenever possible. Prison uniforms should never be humiliating for any prisoner, including some minorities who may have a different idea of propriety. In addition, in the uniformity of the prison

environment, maintaining a difference in appearance can be an important way for minorities to express their sense of a separate cultural and ethnic identity. Such expressions should be tolerated whenever they are not directly disruptive to the maintenance of order.

Accommodating Special Diets

For all prisoners, food should be available in sufficient nutritious quantities at regular meal-times. When minorities have special diets that forbid them to eat certain foods or to eat at cer-

tain times, then there should be alternative servings that allow them to maintain as normal a diet as is reasonably possible.

Respecting Religious Requirements

All prisoners have the right to continue to live according to their religious customs and traditions. Whenever possible, prisoners should be able to worship together and to have a qualified representative of their religion visit the prison and perform appropriate ceremonies.

Example: Religious Practices in Prison, Canada

To fulfil the religious requirements of some prisoners, Correctional Services accommodates a number of practices, including traditional dress (such as turbans), religious diets (such as a pork-free diet), sacred scriptures (such as the Quran), different days of worship, and diverse religious or spiritual leaders.

Example: Spiritual Practices, United States

In prisons in the state of Arizona, Native American prisoners have access to traditional spiritual counselling. Minimum security inmates are allowed to attend weekly sweat lodge ceremonies.

Additional Resources:

More information is available in English at:

<http://www.csc-scc.gc.ca/> (Corrections Services of Canada)

Adapting Accommodation

All prisoners have the right to individual, clean bedding and sufficient individual space. Minorities should have the same access to adequate accommodation except where cultural practice may make one type of arrangement traumatising. In some cultures, isolation in an individual room is more stressful than sharing space, and this should be respected whenever possible. However, this does not mean that overcrowding is appropriate. Staff should be sensitive to tensions between groups and avoid placing minorities in housing where they are at risk of violence from other prisoners.

Example: Accommodation, Australia

Aboriginal prisoners have been found to be less able to tolerate isolation in custody than a person of non-Aboriginal descent. Thus, a number of jurisdictions are currently allowing for 'buddy cells' and correctional services are housing Aboriginal offenders in dormitory style.



Additional Resources:

More information is available in English at:

<http://www.aic.gov.au/conferences/indigenous/brownp.html>

(Australian Institute of Criminology)

Making Equal Education and Work Opportunities

Prisoners from minorities and indigenous groups may have had little education and may have limited work skills. This leaves them vulnerable to discrimination in the assignment of work and study programmes. Staff needs to understand that a lack of experience does not mean that minorities are not capable of assimilating, learning, and performing as well as other prisoners.

Minorities should never be systematically denied access to the valued jobs of the prison. An equitable system for the distribution of work should be in place. Minorities, like all prisoners, have the right to participate in different work activities in keeping with their skills and interests. Their labour should never be exploited and they should not work more difficult or stressful jobs or longer hours than other prisoners or than would be acceptable outside the prison.

Providing Medical Care

Before entering the prison system, some indigenous offenders and minorities may have received limited or no medical care. Many suffer chronic diseases while others may acquire certain conditions in prison, such as skin conditions, visual impairment, malnutrition, drug or alcohol addiction, and sexually transmitted diseases.

All prisoners should have access to medical care of the same quality afforded to people outside the prison. Like all prisoners, when minorities and indigenous inmates first enter the prison system, their health should be evaluated and any conditions treated. Medical staff should be aware of culture and customs that may cause some minority or indigenous offenders to refuse treatments.

Providing Legal Assistance

People from minority and indigenous groups have the right to an adequate and effective criminal defence, including the right to a translator when necessary. If possible, legal assis-

tance should be provided to educate prisoners about the charges against them, relevant legal procedures, and how to access legal aid for those who cannot afford an attorney.

Example: Linguistic Services, Canada

Correctional Services keep a list of staff who can speak different languages and who would be suitable interpreters. The aim is to guarantee minority offenders who have difficulty speaking English or French the right to interpreter services in quasi-judicial proceedings where the loss of liberty or privileges is at stake, such as disciplinary hearings and Parole Board hearings in institutions and the review of parole conditions in the community.



Additional Resources:

More information is available in English at:

<http://www.csc-scc.gc.ca/> (Correctional Service of Canada)

Promoting Contacts with Family and Community

Like all prisoners, minorities and indigenous prisoners need contact with family, friends, and the greater community. For these groups, there is a particular strong risk that they will be isolated from all contact. It may be too expensive for families to visit prisons far from their home. Or they may be ashamed, or may not understand how to access the place of detention. Whenever possible, indigenous and minority prisoners should be transferred to a detention centre where they can have regular contact with their families. Where this is not possible, members of minority groups should be placed in a

centre where they can establish relations with other people from a similar cultural background.

Based on the perception of discrimination in the criminal justice system, many family members believe that prison authorities will discriminate against family members who visit. Prison administrators should try their best to involve community organisations that can promote understanding of the prison system for minorities and their family members and can visit when family cannot.

All visits and correspondence should be allowed to take place in whatever language the prisoner chooses.

Preventing Ill-Treatment and Abuse

Minorities have the right to not suffer discrimination because of their beliefs, customs or ethnic origin. They have the right to be treated with dignity.

Unfortunately, minority prisoners are often the victims of ill treatment and abuse by both guards and other inmates. They may be subject-

ed to kicking, beatings, sexual abuse, humiliating treatment, hate speech, mocking as well as individual or collective harassment like push-ups or parade drills. To avoid such problems, minorities often prefer to live in isolation, away from the other inmates. Although minority prisoners should be given the opportunity to live near or

with other members of their group, the group should not be singled out for negative differential treatment. Whenever possible, integration and mutual understanding should be encouraged.

Prison officials and staff need to be sure that minority prisoners understand prison rules before applying disciplinary action. Punishments should not be more severe for minority prison-

ers than for other prisoners. Small infractions should not be punished by severe sanctions just because normal actions, such as denial of visits, may not apply to a prisoner who does not usually have visitors, for example. Members of minority groups should also have equal access to legal remedies for abuse that may occur within the prison environment.

D. Creating a Non-discriminatory Environment

Equality of treatment involves more than ensuring that overt discrimination is not taking place. Rather, it means taking positive actions to make sure that the special needs of minority groups are met in culturally sensitive ways. An environment of tolerance and acceptance needs to be

actively fostered. Difference need to be recognised as normal and legitimate.

There are a variety of measures that officials can take to promote a positive atmosphere of non-discrimination in prison.

Setting Non-Discrimination Policies

One way of reinforcing the fact that discrimination is unacceptable is to create a policy of non-discrimination for the prison. The policy should

be announced publicly, made part of prisoner orientation, and placed on prominent display around the prison.

Recruiting Staff from Minority Groups

The best safeguard against discrimination is a just and impartial attitude of all staff, starting at the top. One way to create this attitude is to have minority members of staff at all levels. They may be in a better position both to relate

with minority prisoners and to influence them toward good behaviour and rehabilitation. Every effort should be made to recruit prison staff from ethnic and religious minorities.

Cross-Cultural Training for Prison Staff

Staff should be given training to help them understand differences between cultures. Training should include factual information about minority group prisoners and their cultural background,

which can help prison staff better understand prisoners' different behaviour and attitudes towards prison life, criminality, and life in general.

Example: Cultural Training, Australia

Between 1996 and 1999, the Department of Corrective Services of Queensland provided Cross Cultural Awareness training to prison staff. The major objective of the programme was to assist participants in developing strategies to communicate effectively with indigenous inmates and offenders. All facilitators of the programs were of Aboriginal heritage. They shared their own experiences of cross-cultural upbringing and lifestyle. The sharing of personal stories has proved one of the most effective ways of demonstrating the difficulties faced by people living between two cultures.

Example: Training Services, Canada

In an effort to compensate for cultural differences and bridge the ethno-cultural gap between offenders and case management personnel, training in ethno-culturally differences has been offered to staff. For instance, the Black Inmates and Friends Assembly (BIFA) delivers programmes on: intake assessment; assistance with pre-parole; discharge planning; group counselling (focused on black heritage); and staff development (conferences, workshops, and seminars).

Additional Resources:

More information is available in English at:

<http://www.aic.gov.au/conferences/indigenous/wano.html>

(Australian Institute of Criminology)

Community-Orientated Programmes

It is essential to involve members of the community in detention programmes for minorities and indigenous prisoners. Community organisations provide a link between the prisoners, their home culture, and the culture of the majority group. They can be essential to promoting understanding in general society and reintegration and rehabilitation for the individual prisoner.

Example: Visitors Scheme, Australia

To halt incidents of Aboriginal deaths in custody, the Visitor Scheme was established in 1988. All Visitors are indigenous people. They assist in ensuring that culturally appropriate counselling and support is provided to Aboriginal prisoners and that indigenous prisoners are treated in a fair and humane manner while incarcerated.

Example: Aboriginal Healing, Canada

Native and Inuit Elders, also referred to as 'Healers' are involved in programmes dealing with issues such as substance abuse, violent behaviour, family problems or sexual deviancy. Programmes have grown out of an awareness that many aboriginal offenders make significant treatment gains when engaged with a respected member of their own community. Traditional healing provides the offender an opportunity to develop a clearer sense of self-identity, cultural awareness, pride, and belonging.

Example: Community Liaison, Romania

In 2000, the Romanian Police Force signed a Partnership Protocol with representatives of the Roma minority, with a view to fostering cooperation and mutual trust. The main goals of the protocol are the organisation of an efficient system of communication between Roma and the law enforcement community and the establishment of special teams of negotiators to prevent the escalation of conflict between Roma and the general population.

Example: Community Liaison, Mexico

State social workers observe the inmate's relationship with the outside world in order to help him deal with incarceration and reintegration. For example, when an inmate's family no longer visits, the social worker will visit the inmate's community to find out why the family no longer comes to the prison. This helps to reassure the indigenous person and it helps to maintain and improve social relationships within the detention centre.

Additional Resources:

More information is available in English at:

http://www.csc-scc.gc.ca/text/forum/international/int_e-08_e.shtml

(Correctional Service of Canada)

Sorin Cace, Cristian Lazar, *Discrimination against Roma in Criminal Justice and Prison Systems in Romania*, PRI, 2003.

<http://www.aic.gov.au/conferences/indigenous/prosser.html>

(Australian Institute of Criminology)

Monitoring Minority Groups in Detention

Monitoring and inspecting mechanisms, including data collection and compilation by race, colour, nationality, ethnicity, are important to expose discrimination in criminal justice systems and places

of detention. Reports examining the conditions of minority populations and indigenous peoples can often suggest solutions for easing tensions and promoting tolerance in places of detention.

Example: Reports on Race in Prison, England

Nacro is a crime reduction charity that conducts surveys and produces reports on race aspects of the criminal justice system, and provides race relations training to the police, magistrates, court staff and the prison service.

Example: Prison Monitoring, Mexico

The Human Rights Commission investigates complaints made by individuals and groups concerning violations of human rights in penitentiaries. The Commission sometimes asks prison authorities to take preventive measures to protect the human rights of indigenous groups and suggests administrative practices that will result in better protection of these rights.



Additional Resources:

More information is available in English at:

<http://www.csc-scc.gc.ca> (Correctional Service of Canada)

V. Issues for Discussion

- A. What are the arguments for and against holding prisoners from minority or indigenous groups in separate accommodation blocks? What sort of accommodations should be provided for minorities?
- B. What practical steps should be taken to ensure that prisoners who do not speak the national language are aware of the prison rules and of their rights?
- C. Why do sexual minorities need special protections? What makes them a vulnerable minority when they are members of a majority ethnic or cultural group?
- D. Article 20 of the International Covenant on Civil and Political Rights requires advocacy of racial hatred to be prohibited by law. There is also a fundamental human right to freedom of opinion and expression. Sometimes there can be a tension between these two rights. How can they be reconciled? Is one more important than the other?
- E. List the areas of prison life where discriminatory attitudes amongst staff might have particularly adverse effects on minority prisoners. What measures might be taken to monitor treatment towards minority prisoners?

VI. Case Studies

- A. The local media makes an allegation that there is racial discrimination in the local prison. There is a suspicion that the allegation is well-founded. How would the prison administration investigate the allegations? How would it deal with the facts if they were established? What steps could be taken to ensure that the prison was free of racial discrimination in future?
- B. In your country, members of minority groups are over-represented in prisons. 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?
- C. Outline a programme that might be delivered by educational or other staff, designed to promote better understanding between prisoners from different racial groups and between prisoners and prison staff.



INTERNATIONAL TRAINING PROGRAMME



Made possible with the generous support of the European Union.
Any part of this publication may be freely reproduced provided the source is acknowledged.

Vulnerable Prisoners: Prisoners Under Death Sentence

I. Introduction

Important Note: Penal Reform International (PRI) seeks to achieve penal reform, whilst recognising diverse cultural contexts, by promoting (among other things) the abolition of the death penalty. PRI respects the fundamental human right to life, and is opposed to all killing, whether judicial or extra-judicial, in all circumstances-regardless of guilt or innocence. This Resource Kit 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.

Purpose: To draw attention to the international standards and guidelines governing the treatment of prisoners under sentence of death and to discuss their special needs.

Definition: *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.

Prisoners under sentence of death are pris-

oners who have been condemned to death by a recognised judicial authority sitting in a court of law. They are an especially vulnerable category of prisoners who are particularly affected by and suffering from their situation as individuals condemned to die.

Background: While the death penalty is still practiced in about 84 countries, it has been abolished in law or in practice in 112, and that number continues to grow. Between 1993 and 2003, an average of more than three countries per year abolished the death penalty for all crimes.

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 who are involved. It is important that everyone involved understand how prisoners under sentence of death should be treated according to the international instruments.

II. Objectives

- A. To discuss the special needs of prisoners under sentence of death;
- B. To present the international standards protecting the rights of prisoners sentenced to death;
- C. To encourage prison regimes to safeguard the physical and mental well-being of prisoners under sentence of death in countries that continue to practice the death penalty;
- D. To improve the ability of prison staff and others who have contact with prisoners sentenced to death to deal effectively with the problems faced by these prisoners; and
- E. To present methods that allow access to appeals and that safeguard other rights for prisoners on death row.

III. Essential Principles

- 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 (*Human Rights Committee [HRC], General Comment No 6*).
- B. Abolition of the death penalty shall be encouraged (*Second Optional Protocol to the International Covenant on Civil and Political Rights [ICCPR]*).
- C. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court (*International Covenant on Civil and Political Rights [ICCPR], Article 6.2*).
- D. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases (*ICCPR, Article 6.4*).
- E. Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory (*Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty, the Economic and Social Council of the United Nations [ECOSOC], resolution 1984/50*).
- F. Sentence of death shall not be imposed for

crimes committed by persons below the eighteen years of age and shall not be carried out on pregnant women (*ICCPR, Article 6.5*) or on new mothers, or on persons who have become insane (*ECOSOC, resolution 1984/50*), or on persons over 70 years of age (*American Convention on Human Rights, Article 4.5*).

- G.** Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant (*ICCPR, Article 6.6*).

H. 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*).¹

- I.** 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*).

IV. Implementation

A. Problems in Application of the Death Penalty

It is important for prison administrations to understand that, around the world, problems in the application of the death penalty are very common.

For more information about these problems as well as the international movement against the death penalty, see 'Additional Resources' below.

Discrimination

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 marginalized economic or ethnic groups, or those agitating for political change.

Unfair Trials

Around the world, many legal systems are frail, non-transparent, unfair, and discriminatory, and 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.

1. The United Nations Standard Minimum Rules for the Treatment of Prisoners [SMR] should be interpreted as including prisoners under sentence of death. All the good principles and practices described therein should be considered to apply to prisoners under sentence of death.



Additional Resources:

More information is available in English at:

<http://www.hrw.org/report/2002/> (Human Rights Watch)

State Coercion, Deterrence, and the Death Penalty in the PRC, Annual Meeting of the Association for Asian Studies, Chicago, Illinois, 22-25 March 2001.

<http://www.amnesty.org> (Amnesty International)

<http://www.abolition-ecpm.org/> (Together Against the Death Penalty)

More information is available in French at:

<http://www.abolition-ecpm.org/> (Ensemble contre la peine de mort)

B. Prison Conditions for Death Row Prisoners

Problems with Death Row Regime and Housing

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 maxi-

mum-security areas, often in a specific building, and are subjected to severe security measures which are not justified based on the real level of danger they pose. The position of prisoners who are sentenced to death is one which leaves them vulnerable to mental strain, legal frustrations, and often neglect for months, years, and even decades.



Example: Death Row Housing, Philippines

Death row is locked down and isolated from other "maximum security" inmates. Darkness and stench are the main characteristics of a three-meter-wide concrete veranda enclosed by wire. Hundreds of men on death row wait in this area, smoking cigarettes and queuing for water. They can only leave to attend hearings and meet with attorneys.

Example: Death Row Housing, United States

In the US, inmates under sentence of death are generally kept isolated, in cells no larger than 2 x 3 meters. They are under intense supervision 24 hours a day. Time outside of the cell is often limited to one hour per day. Educational, recreational and other opportunities for human contact or stimulation are extremely limited.



Additional Resources:

More information is available in English at:

<http://www.gluckman.com/DeathPenalty.htm>

Improving the Conditions of Prisoners Under Sentence of Death

The rights of prisoners under sentence of death are the same as those of other prisoners and all international standards apply.

Security

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-

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.

Physical Accommodations

Accommodations for prisoners sentenced to death, in particular sleeping accommodations, 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.

Activities

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.

Death row prisoners should not be discriminated against in access to work: they should work like other inmates and should never be subject to humiliations like being chained together in groups for work.



Example: Activities for Death Row Prisoners, Cameroon

Since 1992, prisoners sentenced to death in Cameroon have been allowed to participate in cultural and sports activities with other inmates.

C. Communication with Friends and Family

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.

Written Correspondence

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.

Visits

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.

Conditions in which visits are conducted are of great importance for preserving a prisoner's dignity. They should take place in decent condi-

tions 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.

Example: Visits to Death Row Prisoners, Kenya

In Kenya, despite other problems with the housing of death row prisoners, prison administrators have recently removed restrictions on outside visitors. No limitations are made on the number of visits allowed, and prisoners on death row report having had received frequent visits from relatives.

Example: Death Row Conjugal Visits, Costa Rica

In principle, conjugal visits with private rooms are authorized in all establishments. The form taken by visits varies according to the regime, for instance, strictly controlled fortnightly visits exist under maximum security regimes.

Example: Family Visits to Death Row Prisoners, Kazakhstan

All prisoners, including those sentenced to death, are entitled to 'family visits', during which small hotel-like rooms with a common kitchen can be rented for a nominal fee to allow the prisoner to spend up to four days with a family member or loved one.

NGOs Promoting Prisoner Visits

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.

Example: International Committee of the Red Cross, Uganda

In Uganda in 2002, the International Committee of the Red Cross (ICRC) carried out 44 visits to 6 prisons in the Kampala District. In addition to registering new detainees and monitoring prison conditions, the ICRC also collected and distributed messages between inmates and their families. The Committee also paid transport costs for over 1000 visits by family members to prisoners on death row.

Example: Death Row Visits, Democratic Republic of the Congo

The NGO "Culture pour la Paix et la Justice" regularly organizes volunteers to visit death row prisoners, since family visits are so restricted and some prisoners do not keep in contact with family members.

Example: Death Row Prisoner Support, German NGO

Members of German Coalition to Abolish the Death Penalty try to find pen pals for prisoners on death row in the US, the Caribbean, and Zambia. They regularly visit death row inmates, attend and observe death-penalty related trials, and help prisoners find good attorneys for their defence.

Additional Resources:

More information is available in English at:

<http://www.icrc.org/> (The International Committee of the Red Cross)

More information is available in English at:

<http://www.gcadp.org/> (German Coalition to Abolish the Death Penalty)

D. Access to Legal Assistance

Appealing a Sentence of Death

For prisoners under sentence of death, there is the immediate threat of execution and therefore a great urgency to obtain proper legal representation. International standards are clear that anyone sentenced to death should have the right to a mandatory appeal, to seek pardon or commutation of sentence, and should have access to information and communications to facilitate these actions. In the case of a person not being able to afford it, legal assistance should be assigned to him.

In practice, however, it is very common for those sentenced to death to have had (and to continue to have) inadequate legal representation. 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. Many prisoners find it nearly impossible to file an appeal to a higher court. Such practices undermine the right to a fair trial.

Example: Legal Aid for Death Row Prisoners, Philippines

In the Philippines, about 85 percent of those charged in capital cases cannot afford private representation. Death row inmates are served by a severely under-funded Public Attorney's Office (PAO), often with disastrous results. Besides handling death-sentence cases, the 877 public defenders have an impossibly large load of more than 350,000 civil and criminal cases each year.

Prison administrations can help death row prisoners access legal aid in several ways.

Contact with Legal Personnel

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.

Active Cooperation with NGOs and Paralegal Groups

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. 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.

Example: Paralegal Group, Malawi

Paralegal Advisory Service (PAS) represents a unique partnership between the prison service and NGOs. Working closely with the prison administrations, PAS aims to do three things: 1. link up the criminal justice system by improving communication, co-operation and co-ordination between the prisons, courts and police; 2. increase legal literacy, helping prisoners to understand the law and how it affects them; and 3. provide legal advice and assistance, enabling prisoners to apply the law and to help themselves. Operating in the four principal prisons in Malawi, PAS covers two-thirds of the prison population of 7,500 people.

Example: Pro Bono Aid for Death Row Prisoners, United States

The American Bar Association (ABA) began the Death Penalty Representation Project in 1986. The project's goals are to better inform the Bar and the public about the lack of representation available to death row inmates, to address this urgent need by recruiting competent, volunteer attorneys and to offer counsel, training, and assistance. It has now enlisted more than 80 major firms as volunteer counsel for capital post-conviction cases.

Example: Legal Aid for Death Row Prisoners, The Caribbean

Simons, Muirhead & Burton, in partnership with Penal Reform International (PRI) began a project which aims to provide free legal representation, advice, and support to prisoners under sentence of death in the Caribbean and to ensure that all prisoners facing imminent execution are able to undertake the legal challenges to which they are entitled. The project assists, advises, and trains local lawyers and NGOs in the Caribbean on all aspects of human rights work relating to capital punishment and prison conditions. The project presently assists 60 prisoners under sentence of death in the Commonwealth Caribbean.

Example: Pro Bono Aid for Death Row Prisoners, Philippines

The Free Legal Assistance Group (FLAG), established in October 1974, is composed of human rights lawyers. The FLAG lawyers handle, on a pro bono basis, appeals from death sentences, which are automatically reviewed by the Philippine Supreme Court. Frequently, FLAG lawyers are also assigned by the Philippine Supreme Court to act as court-appointed counsel for death row convicts. They also provide support services for convicts on death row, as well as for their relatives, through paralegal training seminars and frequent updates and visits.

As a part of their work, some legal aid groups have begun a programme of automatically filing an appeal for prisoners on death row.

Example: Paralegal Group, Malawi

The Paralegal Aid Service (PAS), described above, has established a standard appeal form for prisoners facing a sentence of death. This simplified form has been agreed to be accepted by the High Court. Its use has allowed more prisoners on death row to appeal their cases than was possible before.

Links with the Judiciary

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.

Prisoner-to-Prisoner Support

Especially if professional legal assistance is not available, prison administrations can encourage prisoners with training and experience to help other prisoners file appeals.

Requests for Pardon or Commutation of Sentence

Once prisoners are condemned and have exhausted appeals, the only hope is commutation of the sentence or presidential pardon. Petitions for clemency are sometimes prepared without the knowledge of the prisoner, who may not even sign the document. Again, legal assistance at this stage is essential to guarantee the rights of prisoners to access justice.

Death Row Prisoners after the Abolishment of the Death Penalty

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.

Example: Death Row without the Death Penalty, South Africa

The death penalty was declared unconstitutional in South Africa in 1995, yet as of 2002 approximately 230 people still had the death penalty as their official sentence. A number of reasons were stated for the delays in finalisation of these cases, such as internal organisational problems, judges concerned taking a long time to make sentence recommendations, and differing lists of prisoners who still reflect death penalty as their sentence.



Additional Resources:

More information is available in English at:

<http://www.wmin.ac.uk/ccps/aboutflag.htm> (The Free Assistance Legal Group)

http://www.sahrc.org.za/media_release_6_nov_2002.htm (The South African Human Rights Commission)

<http://www.doj.gov.ph/agencies/pao-history.html> (Department of Justice, Republic of the Philippines)

http://www.smab.co.uk/smab_flash_6.html (Simons, Muirhead & Burton) or PRI website

<http://www.abanet.org/deathpenalty/> (The American Bar Association)

http://www.penalreform.org/english/frset_region_en.htm (Penal Reform International and Paralegal Assistance Group)

E. Physical and Mental Health

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.

Physical Health

Prisoners on death row should be fed adequate and 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.

Disciplinary punishments for death row inmates should follow the same due processes as all other prisoners and should never include the reduction of food or hygiene. Chains, shackles, fetters, handcuffs and other mechanical restraints should not be used routinely on prisoners facing the death penalty.

Mental Health

Prison conditions, physical violence, isolation from other human beings, and the long length of time in death row all combine together to cause psychological deterioration as part of a

system that dehumanises, demeans, and depresses prisoners under sentence of death. Most such prisoners suffer from serious mental health and behavioural problems as a result. In

some cases, as prisoners sentenced to death have nothing to lose, they become violent and suffer extreme deprivation because of their deranged behaviour. In other cases, conditions on death row encourage people to prefer death

as easier than life. They 'volunteer' to be executed and drop any appeals. Prisoners who have become insane since sentencing may not be executed under international standards.

Health Care

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 and 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.

NGOs and Prisoner Health

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.

Example: Medical Care for Death Row Prisoners, Belize

The Prison Welfare Fund, a registered Belizean trust, was established in 1997 to assist prisoners under sentence of death. It raises funds to assist prisoners with items that are considered essential to maintain a basic standard of living. Medical and other basic provisions as well as primary medical care are provided to inmates.

Example: Basic Needs for Death Row Prisoners, Democratic Republic of the Congo

The volunteers of Caritas Internationalis, a confederation of 154 Catholic relief, development, and social service organisations, collect food and clothing to provide for death prisoners' basic needs in the Democratic Republic of the Congo.

F. Prison Staff

Psychological Burden

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-often a harrowing experience.

Prison staff, including guards and medical staff, may feel psychological repercussions of working on death row and may be in need of support themselves.

Staff Training

Staff who are in charge of prisoners under sentence of death should be carefully selected. They should be given special training and support. Prison staff have to be particularly sensitive when looking after prisoners who are under sen-

tence 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.

G. Methods of Execution

Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering. 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.

Physician Participation

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.

Example: Physician Participation in the Death Penalty, United States

The American Medical Association (AMA) issued a statement declaring that it considers physician participation in the death penalty immoral and against medical ethics. It urges all state medical societies to reaffirm that physician participation in executions, except to certify cause of death, is a serious violation of medical ethics, and to examine their state criminal codes to ensure that physician participation in executions is not required by law, except to certify cause of death. The AMA urges all state medical societies whose state criminal codes involve active physician participation in executions to engage their state's legislative process to change the pertinent criminal codes.

Notifying Prisoner and Family

Staff should take care to notify the prisoner advance of the exact time of execution. under sentence of death and the families in

Additional Resources:

More information is available in English at:

<http://www.deathpenaltyinfo.org> (Death Penalty Information Center)

<http://www.hrw.org/reports/2001> and [Http://www.hrw.org/reports/2002](http://www.hrw.org/reports/2002) (Human Rights Watch)

<http://schr.org/reports/index.html> (Southern Center for Human Rights)

<http://www.handsoffcain.org/> (Hands off Cain)

<http://home.worldnet.fr> (ACAT)

<http://www.splcenter.org/splc.html> (Southern Poverty Law Center)

Additional general information on the death penalty is available in French at:

<http://www.fidh.org/ameriq/rapport/2002/> (Fédération Internationale des Ligues des Droits de l'Homme)

<http://www.abolition-ecpm.org> (Ensemble contre la peine de mort)

V. Issues for Discussion

- | | |
|--|---|
| <p>A. 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?</p> | <p>B. 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?</p> |
|--|---|

- C.** 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?
- D.** Discuss the issues involved in deciding who should be present before and during executions.
- E.** 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?

VI. Case Studies

- A.** 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?
- B.** 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?
- C.** 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?
- D.** 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?

PRI's Training of Trainers Programme

The primary aim of the training of trainers component of this programme was to establish skilled, sustainable and dynamic teams of trainers in each of the seven regions world-wide in which PRI works.

The basic programme involved conducting a regional training of trainer workshop for carefully selected groups of trainers in each of PRI's regions. The week-long residential workshops featured both training on penal reform and human rights issues tailored to address priorities in that region, as well as training on learning theory and training methodology, with comparatively greater emphasis placed on the latter. Supported by the resource kits prepared as part of this programme, teams of trainers have also developed workshop designs for their own use and as models to be used by others in each region.

Each training of trainers workshop was followed by a nine- to twelve-month period of field work during which these trainers conducted experience-based training aimed at national and local needs. In most instances, these trainers worked in teams of two to three trainers, often

bringing together members of government agencies with NGO members in order to promote collaboration over the long-term.

Following the period of fieldwork, these trainers re-convened for an advanced training of trainers workshop to evaluate the training they have completed, exchange lessons learned and increase and solidify their skills as trainers. In some cases participants from one region were invited to attend the advanced training of trainers workshops in regions outside of their own in order to promote a cross-regional exchange of ideas, techniques and strategies.

Six regional training of trainers workshops were held, one each in Russia and Central Asia, East and Central Europe, the Arab World, English-Speaking Africa, Latin America, and South Asia. Trainers from all of these regions have completed the field-work phase and the advanced ToFT workshop. The one remaining region, Francophone Africa, is scheduled to conduct a training of trainers including three West African countries in the fall of 2003.

Additional programme-based training of trainers workshops were conducted in several

countries including Burundi, Jordan, Kazakhstan, Kenya, Lebanon, Morocco, Nigeria, and Rwanda. Specialised training workshops were conducted in numerous countries including training for prison psychologists and community service officers in Moldova, juvenile justice in Pakistan and Jordan, and community corrections and non-custodial sentence management in Russia.

While good prison management and the special needs of vulnerable prisoners have been the most common training issues addressed within the programme, the demand for other topics has grown dramatically as PRI and its partners have worked to address the salient and crit-

ical issues facing penal reformers in the countries in which we work. These issues include alternatives to imprisonment, building public support for penal reform, diversion programmes for juveniles, and problems of access to justice for minorities, and indigenous populations

Currently about one hundred trainers are actively involved in the programme bringing a rich diversity of culture, local knowledge, language ability, professional expertise, and training skill and experience. These trainers regularly carry out training both within the framework of PRI programmes and in conjunction with their own professional roles.

Penal Reform International

40 rue du Château d'eau
75010 Paris. France
Tel : 33 1 48 03 90 01
Fax : 33 1 48 03 90 20
priparis@penalreform.org
www.penalreform.org

Translation: Sophie Tierny, Julie Noyau, Caroline Barzilai (English - French)

Fatine Bolifa, Anna Jazar (English - Arabic)

Tatiana Gromova, Valery Sergeyev, (English - Russian)

Jan Hero, Ingrid Cortes, (English - Spanish)

Design:

Kartrak - Semios

Lay-out design:

Yves Prigent - PRI Paris

Photo Credits:

Samuel Bollendorff - 2001 - PRI / L'Œil Public (page 26: Malawi)

Jérôme Conquy - 2001 - PRI (pages 48, 106 & 120: Juvenile Detention Centre, Almaty, Kazakstan)

Sylvie Fraissard - 2003 - PRI (page 80: Jaipur Women's Jail, India) and Stéphane Remael - 2003 PRI / L'Œil Public
(front cover, pages 38 & 92: Men's Jail in La Paz, Bolivia and page 64: Women's Jail Santa Cruz, Bolivia).

All other photos by Hans H. Wahl - PRI.

© Penal Reform International - 2003

Printed in Paris by L'Exprimeur - October 2003