



LIVING CONDITIONS ON DEATH ROW

Factsheet on how to conduct a prison visit

16th World Day Against the Death Penalty

On 10 October 2018 the World Coalition Against the Death Penalty and abolitionists all over the world will celebrate the 16th World Day Against the Death Penalty. This year, the World Day will focus on the living conditions of those sentenced to death. The World Coalition is addressing the issue because it is aware that regardless of the prospect of execution, the prison conditions for those sentenced to death in itself inflicts considerable physical and psychological suffering, which can in some cases amount to torture.

In striving for the complete abolition of the death penalty we cannot ignore the daily treatment that people sentenced to death endure and their anguish as they face execution.

The aim of this factsheet is to provide advice and a practical guide to civil society organizations wishing to visit prisons to report on the conditions of detention experienced by people sentenced to death. It will focus on the revised United Nations Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules¹. These Rules established fundamental rights for prisoners from their admission in prison through to their release.

GETTING AUTHORISATION

- A prison visit might not allow you to have any contact with prisoners; it might only allow you to visit the prison facilities to get an overview of the prison.
- You must apply for permission to visit a prisoner sentenced to death. Visiting prisoners is not the same thing as visiting a prison. Ask whether the visit will be confidential. In some countries, lawyers may have confidential visits with prisoners, so consider enlisting lawyers and law students to assist with the project.
- Write a letter to the Director General of Prisons or the prison administration, asking for a visit with prisoners.
- Access may be denied to some prisoners or prisons. You should indicate this in your report.
- You can also approach an organization in your country that has permanent access to prisons (authorisation from the Ministry of Justice, the prison administration, etc.).

PREPARING FOR THE VISIT

The first step is to compose the delegation. The delegation's size can vary from 2 people (never less) to about ten. It is essential that both men and women are represented in the delegation. The size and composition of the delegation must take into account the specificities of the prison to be visited. The presence of a doctor in the delegation can be very useful.

Before the visit, the delegation should meet to plan their action and appoint a head of the delegation. Moreover, it is important that the delegation obtains and studies the various legal and regulatory texts. It is preferable to equip the delegation, as much as possible, with:

- A map of the prison
- A list of detainees
- Internal regulations of the prison

¹Adopted unanimously in December 2015 by the United Nations General Assembly, The Nelson Mandela Rules are not entirely new, but an updated version of the 1955 Standard Minimum Rules for the Treatment of Prisoners (SMRs). The Rules were revised in eight substantive areas to reflect standards that have emerged in correctional science and human rights since 1955. Available here: https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf

- Statistics on disciplinary measures
- Staff Information

If you do not have this information, you may be able to obtain it through a prior interview with the manager or director of the prison you will visit. It is then necessary to verify the information during discussions with prisoners or prison staff (guards, registry staff, nurses, prison chaplains, etc.).

During the visit, the delegation should be equipped with:

- Writing material (paper and pen)
- Hand sanitizer
- Flashlights
- Measuring equipment
- A thermometer
- A camera (request permission to take pictures first)

CONDUCTING THE VISIT

The first thing to do during the visit is to meet the prison director to introduce the delegation and the purpose of the visit. Information should then be gathered about staff, prisoners, the institution, disciplinary sanctions, regulations within the prison, or the main problems/challenges identified.

It is necessary to try to obtain maps of the establishment as well as to have access to the various registers (number of people sentenced to death, disciplinary sanctions, complaints, diseases, etc.).

It is important to remember that visits are aimed at improving the prison system in general and not at denouncing the staff or administration of the institution. One must approach it in a spirit of dialogue and collaboration to move forward together.

The director should then be asked to organize a brief tour of the entire detention center in order to get an initial overview.

PREPARING FOR INTERVIEWS

- Prepare a script that you will read at the beginning of each interview. This script should:
 - o Explain the purpose of the project and who is involved;
 - o Describe your organization, your role, and the distinction between your organization, the government, and the prisoner's legal representatives—you are not there to gather information to help their cases individually, you are not their appointed attorney, etc.;
 - o Describe any permissions obtained and from whom;
 - o Explain what will happen to the information received – will you use it in a report? In advocacy and lobbying? In advocacy with the United Nations?;
 - o Describe whether and how the source of the information will be kept confidential and how the report will present information to ensure confidentiality of sources (e.g., 'Prisoner 001 at Prison A in City M, interviewed July 2018');
 - o Identify the possible negative and positive consequences of participating in the interview;
 - o Explain that you cannot provide legal advice or individual assistance, but you may be able to provide referrals;
 - o Give the interviewee the possibility of not participating in the interview;
 - o Make it clear that the interviewee may stop the interview at any time and may refuse to answer any question.
- Create a list of referrals and have it ready in case your interviewees ask for assistance with particular problems or issues.
- Create interview teams. Ideally, each interview will have an interviewer and a note-taker.
- Determine whether you will need interpretation and identify someone to provide interpretation services.
 - o If you use an interpreter, add a sentence in the opening script to explain the interpreter's role.
 - o Provide the interpreter with training about confidentiality and professionalism.

- Decide how you will handle and store the interview notes. Who will have access? How will they be coded / named so as to preserve the anonymity of the sources?

CONDUCTING THE INTERVIEWS

Following this, the delegation splits to conduct the interviews with prisoners sentenced to death. It is preferable to prioritize woman, minors, the elderly, and people with physical, intellectual, or psychosocial disabilities.

It is also interesting to meet important members of staff such as the doctors and nurses, the religious leaders, the head guard, the staff of the registry office, etc.

These interviews will be conducted by different groups (i.e., sub-delegations).

INTERVIEWS

- Interview people sentenced to death separately and if possible, without the presence of the prison staff.
- Recording devices are often not allowed in prisons, so you may need to take handwritten notes. It is usually better to take notes by hand because people speak more freely when they are not being recorded. Make sure you have a person attending the interview who can be your notetaker.
- Make copies of the questionnaire, which will serve as your interview guide.
- Conduct the interview as a conversation instead of conducting it as a survey. It provides more proximity and authenticity to the interview. If the person gives short responses, ask follow-up questions. Encourage them to tell stories to illustrate problems or issues and encourage them to provide details.
- If the person has a hard time answering a question, either because it is a difficult question or because the person becomes emotional, move on to a different question and come back to the difficult question later.
- If the person does not respond to a question, try asking it in a different way.
- Prior to each interview, be sure that prisoners understand the aim of this survey and that you do not represent state authorities (i.e., the prison administrations or high-ranking guards).
- Some prisons may ask a guard to stay close to you, and the guard's presence will have an impact on the prisoner's answers. Remember that the first monitoring principle is "Do No Harm" – do not endanger a prisoner by compelling him or her to say things that could result in retaliation by prison guards.

CONFIDENTIALITY

- Prior to each interview, provide an extensive description of the project to the prisoners. You can do this by giving them written documents in simple language, taking into account that some prisoners may not have strong literacy skills.
- Assure them that their responses will remain confidential and anonymous. People need to be sure that the information will be used only for your project, and that all interviews are anonymous.
- Do not force them to answer every question.

QUESTIONNAIRE TEMPLATE

Personal information:

- **Age:**
- **Gender:**
- **Nationality:**
- **Family situation:** Are you married? Do you have any children? If yes, how many? How old are they?
- **Religion:** Do you practice any religion? If yes, which one?
- **Sentencing:** When were you sentenced to death? For what crime?

Education level and occupation:

- **Education level:** Have you ever been to school/university? If yes, until what level? If no, for what reason?
- **Occupation:** What was your main occupation before your imprisonment? What kind of job did you have?

Living conditions on death row:

- **What things do you lack** on death row?
- **Financial support from family:** Do you receive any financial support from your family now that you are in prison? If so, how much? Which expenses can you cover with this financial support? What do you have to do without because you do not have more financial support? If your family provides you with financial support, what do they have to sacrifice to give you that support? How do those sacrifices affect your family?
- **Health:** Do you have free access to healthcare? What is the quality of the care? Tell me about a time you were sick or hurt in prison and what happened.
- **Food and drinking water:** How often do you eat? What do you eat? Do you have access to food on a daily basis? Who provides the food? What about drinking water? Tell me about the quality of the food. Can you buy food inside the prison?
- **Accommodation:** What is the size of your cell? How many people are there in your cell? Can you describe how you and your cellmates sleep at night?
- **Hygiene:** Are you provided with toiletry items (toilet paper, soap, toothpaste, toothbrush, etc.) free of charge? If not, how do you get these items? Do you have access to toilets? To a shower? How do you access the toilet/shower? What about clean water for washing? If yes, how many times per day/week?
- **Recreation:** Do you have access to the outdoors? If so, how often and for how long? Do you have access to the library, places of worship, places of leisure (football field) in the prison?
- **Work:** Do you work in the prison? If you do, what is your job? If you do not, is it because you are a prisoner sentenced to death?
- **Education:** Does the prison provide learning opportunities? Do you, as a prisoner sentenced to death, have access to these opportunities? Tell me more about it.
- **Contact with the outside world:** Are you authorized to have visitors? If so, how often? Can you call and/or write to your relatives often? What about your lawyer? Are you authorized to meet him/her frequently and in private?
- **Discipline and sanctions:** How often is your cell searched? Is the search used as a disciplinary sanction? What about body searches? Tell me about solitary confinement, have you ever been in solitary confinement? If you have, for what reasons and for how long? Please tell me more about that experience?
- **Corruption:** [N.B. Only ask if there are no guards present]. Do you think that any of these conditions could be improved by paying guards or another prisoner?

OBSERVATION OF CONDITIONS OF DETENTION

Assess the extent to which the Nelson Mandela Rules are respected.

During the visit, the delegation will pay particular attention to disciplinary/isolation areas, visiting rooms, leisure areas (sports, library, etc.), kitchens and the infirmary.

Basic principles from the Nelson Mandela Rules [Rules 1 to 5]:

- Prisoners must be treated with respect for their inherent dignity and value as human beings.
- Torture or other ill-treatment is prohibited.
- Prisoners should be treated according to their needs, without discrimination.
- The purpose of prison is to protect society and reduce reoffending.
- The safety of prisoners, staff, service providers and visitors at all times is paramount.

The Nelson Mandela Rules can be categorized into 6 groups:

1. Treatment

Upon their arrival:

- Prisoners must be given information about the prison regime, including prison rules and how to access legal advice – in a language and manner they understand.
- A healthcare professional must examine every prisoner as soon as possible after arrival.

The prison must place all belongings of the prisoners in safe custody, alongside a signed inventory. Any property should be returned to them in good condition on their release.

2. Protective measures

As regards discipline and sanctions, they must be proportional to the prisoner's conduct:

- **Procedures for searches** must be laid down in law or regulations and any decision on whether to conduct a search should consider whether it is necessary and proportionate. Search procedures must respect the dignity and privacy of the prisoner, and not be used to harass or intimidate. Invasive body searches should be the last resort, and the findings of searches need to be recorded. Searches of visitors, at a minimum, must be subject to the same safeguards as searches of prisoners and take account of their status as non-prisoners.
- **Solitary confinement** should only be used in exceptional cases, as a last resort, for as short a time as possible, after authorisation by a competent authority, and subject to independent review. Indefinite and prolonged solitary confinement (of more than 15 days) is prohibited entirely. For some groups, e.g. pregnant or breast-feeding women, any use of solitary confinement is prohibited.
- **Instruments of restraint** that are inherently degrading or painful are prohibited. The use of any other instrument is subject to strict conditions: their use is only legitimate if no lesser form of controlling an actual risk is available and they must be removed as soon as possible.
- Except in cases of self-defence or attempted escape, **staff should not use force on prisoners**. Only in exceptional circumstances should prison staff be armed. UN standards also require strict regulations on the use of force and that arbitrary or abuse of the use of force be punishable as a criminal offence.
- **Everything must be recorded in a detention register.**

Certain categories of prisoners must be housed separately as a means of protection and to facilitate adequate individual treatment. This applies to men and women, pre-trial and convicted prisoners, children and adults.

3. Material conditions

In terms of accommodation, certain rules must also be respected:

- **Hygiene:** every prison must have clean bathroom facilities in the interests of dignity and hygiene. Access to water, toilet items (including sanitary towels for women), adequate clothing and bedding must also be provided.
- **Food and water:** Prisoners must be provided with nutritious food of wholesome quality and also drinking water whenever they need it. Food and water cannot be restricted as a disciplinary sanction and must be provided without exception.
- **Sleeping:** If accommodation is cell based, only one prisoner should be housed in each cell, and where there are dormitories, careful selection procedures must be used to decide on who is housed together. Pre-trial detainees should be housed in single cells. Proper heating and ventilation, air, light and minimum floor space must be provided, without exception.
- **As the state bears responsibility for those it deprives of their liberty,** healthcare must be provided in prison and offered at the same level of care as in the community.

4. Plans and activities

The detainee has the right to have contact with the outside world.

- Prisoners are allowed to receive visits and to contact their family and friends through other means such as by phone or letters. Visiting restrictions must not be used as a disciplinary measure.
- Prisoners must be given adequate opportunity, time and confidential facilities to meet with their lawyer. They should have access to effective legal aid, in accordance with international standards.

Opportunities for sport should be provided and at least one hour per day of outdoor exercise permitted. A prison library must be available, and prisoners should be allowed to practise their religion.

Prisons must provide access to education and vocational training, as well as work and any other assistance necessary for reintegration. To be effective, these programs must be individualized.

5. Medical care

Prisoners shall have access to medical care day and night, assisted by adequate medical personnel. Specific care must be provided for women and babies.

6. Prison staff

- Prison staff should be appointed on a full-time basis and should have civil service status with security of tenure.
- Salaries must be adequate to attract suitable prison staff.
- Careful selection of prison staff is required.
- Training opportunities should be provided and include the use of force, and working with certain categories of prisoners.

In addition, the prison must hire a sufficient number of specialists, including psychiatrists, psychologists, social workers, doctors and teachers to assist prison staff in their tasks. All must be independent.

Finally, a final interview with the management is essential. It must be short (since it will in any case be supplemented by a written report). It is advisable to address the positive points first. End the meeting by explaining what the delegation intends to do as a follow-up to this visit.

At the end of the visit, the delegation should meet to exchange experiences and impressions of the different groups, as well as strengths and weaknesses.

OBSERVATION TEMPLATE

Prison visited:.....

Name of the observer:

Date :

Duration of visit:

N°1	Fields of study	Elements to be observed	Observations
	Stage of the criminal proceedings	<ul style="list-style-type: none"> • Transfer • Pre-trial • Investigation • Sentencing 	
	Treatment	<ul style="list-style-type: none"> • Torture and ill treatment • Disciplinary isolation • Use of restraints • Use of force 	
	Protection measures	<ul style="list-style-type: none"> • Detention registry • Information on detainees • Inspection • Disciplinary measures • Procedures for complaints • Separation of categories of prisoners 	
	Living conditions	<ul style="list-style-type: none"> • Food • Lighting and ventilation • Sanitary installations • Personal hygiene • Clothing and bedding • Overcrowding and housing 	
	Day-to-day activities	<ul style="list-style-type: none"> • Contact with families and relatives • Contact with outside world • Outdoor activities • Education • Recreation and cultural activities • Religion • Work 	
	Medical care	<ul style="list-style-type: none"> • Access to medical care day and night • Medical staff • Specific care for women (and babies) • Specific care for mentally ill prisoners • Communicable diseases 	
	Other observations		

WRITING A REPORT

Upon returning from the visit, a report on the observations made during the visit should be prepared. This is important because an effective report can facilitate dialogue with the authorities and in turn facilitate the follow-up of the recommendations made.

Care must be taken to maintain a common structure for the various reports. They should be drafted in such a way as to give consistency and credibility to this work.

The report must be detailed and include information on the:

- Composition of the visiting team
- Date and duration of the visit
- Objectives / Reasons for the visit
- Relations with the director
- Cases of ill-treatment / torture
- Material conditions
- Food
- Medical / social service
- Activities offered to the prisoners

To finish the report, it is necessary to make recommendations to the prison and to decision-makers.

ACKNOWLEDGEMENTS

This information sheet was created by FIACAT in partnership with The World Coalition Against the Death Penalty. For further information on the revised United Nations Standard Minimum Rules for the Treatment of Prisoners, please visit [Penal Reform International's website](#), including its guide² on the subject, and the UNODC³ website. For other documents on visiting prisons, you can study the Democratic Control on Armed Forces (DCAF) reports on prison visits in Tunisia⁴ or the Association for the Prevention of Torture (APT)⁵.

FOR FURTHER INFORMATION, PLEASE CONTACT:

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² The revised United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) Short guide: https://www.penalreform.org/wpcontent/uploads/2016/01/PRI_Nelson_Mandela_Rules_Short_Guide_WEB.pdf

³ Nelson Mandela Rules, https://www.unodc.org/documents/justice-and-prison-reform/16-08696_F_rollup_Ebook.pdf

⁴ 'Visiting places of detention in Tunisia'. DCAF.

https://www.files.ethz.ch/isn/187690/Aide-m%C3%A9moire_visiting_detention_centres.pdf

⁵ Visit a place of detention, APT <http://afcndh.org/wp-content/uploads/2016/04/Guide-visite-des-lieux-de-d%C3%A9tention.pdf>