



UNODC

United Nations Office on Drugs and Crime



Handbook for prison leaders

**A basic training tool and curriculum
for prison managers based on
international standards and norms**

CRIMINAL JUSTICE HANDBOOK SERIES

UNITED NATIONS OFFICE ON DRUGS AND CRIME
Vienna

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Contents

	<i>Page</i>
Acknowledgements	iii
Introduction	1
How to use the Handbook	7
Chapter 1. Identification of current challenges	11
Chapter 2. Effective leadership	17
Chapter 3. Human rights, international standards and good prison management	25
Chapter 4. Importance of the legal framework, policies and regulations	35
Chapter 5. Management and accountability	39
Chapter 6. Management of human and financial resources	51
Chapter 7. Management of physical facilities	63
Chapter 8. Meeting the basic needs of prisoners	69
Chapter 9. Vulnerable prisoners	77
Chapter 10. Children and youth in prison	85
Chapter 11. Managing the prison population	91
Chapter 12. Safety and security, control and discipline within prisons	99
Chapter 13. Early or conditional release of offenders	111
Chapter 14. Alternatives to imprisonment	115
Chapter 15. Oversight mechanisms	125
Chapter 16. Overcoming challenges: strategic approaches	135
 <i>Annexes</i>	
I. Five-day training course curriculum for prison leaders	137
II. List of additional resources	139



Introduction

Several very good manuals on human rights in prisons and on prison policy are already widely available. Some of them are listed at the end in annex II listing other useful resources. This Handbook focuses on an overview of key issues which should be of concern to prison managers and the reforms they must often engage in and promote as prison leaders. It is meant to support a basic five-day training workshop for prison officials responsible for leading and managing prisons in developing or post-conflict countries.

A prison system based on international standards and norms is a good system, one which is grounded in a deep respect for the rule of law and human rights. Therefore, one of the major objectives of the Handbook is to explore and understand practical ways in which prison leaders can more effectively implement international standards and norms in the institutions for which they are responsible.

Developing countries often lack the necessary resources to bring their prison system and their prisons up to internationally accepted standards. They lack the funds, trained personnel, technology, infrastructure, or expertise to proceed with all of the necessary reforms at the same time. This is not to say however that dedicated leaders cannot accomplish significant progress, particularly when they can count on a little help from friends from other jurisdictions. This Handbook tries to cover the aspects of effective, fair and just prison management. Prison leaders will be challenged to identify the reforms that they must contemplate in order to bring their institutions into compliance with international standards. They will also be challenged to reflect on the most effective ways to bring about the necessary change.

The Handbook and the workshop curriculum that accompanies it provide a rough template to help leaders identify the changes that are required in their own environment and to reflect on the challenges they are likely to encounter in bringing about these changes. The Handbook does not underestimate the complexity of the task of prison reform and it therefore does not propose ready-made solutions. It does not even attempt to anticipate and answer all the questions that will come up in the process. However, together with the proposed curriculum, the Handbook should facilitate some fresh thinking about the many common issues and challenges prison leaders often face and about possible solutions to them. With these new tools, prison leaders will hopefully

identify practical ways to approach the prison management problems they face. We hope that it will help them do so with renewed confidence in their own leadership abilities and a fresh outlook on how they may succeed in their prison reform and capacity building efforts. It is hoped that the facilitators or trainers using the Handbook will feel free to tailor some of the questions and exercises to local circumstances therefore making it more relevant to the participants.

Prison reform can be a daunting task. In fact it usually is, and attempts at reform tend to fail at least as often as they succeed. This is not an excuse for giving up, but a good reason for approaching the task cautiously and recognizing the difficult and complex role that prison leaders play in bringing about effective and sustainable reforms within the system in which they work. Prisons are harsh and difficult environments, particularly when they operate without the necessary human, physical and financial resources. The job of a prison leader is inevitably a very challenging one. It clearly requires the full commitment of a strong, dedicated, creative and persevering individual.

“The purpose and justification of a sentence of imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society, the offender is not only willing but able to lead a law abiding and self-supporting life.”

Standard Minimum Rules for the Treatment of Prisoners, Standard 58

Prisons and correctional facilities house offenders who have been sentenced to imprisonment. They also house individuals who have been accused of having committed an offence and who are awaiting trial, or have been convicted of an offence and are awaiting their sentence. In post-conflict and other critical situations, prisons are sometimes also used to detain mentally ill inmates who cannot be placed elsewhere, illegal immigrants or refugees, political prisoners, previous combatants, and even victims of crime. The situation is often one where prison managers do not really know much about the prison population and the characteristics of the prisoners themselves. In many instances, prisoners are detained unlawfully and there is no easy way for managers to determine who is lawfully committed to the institution and who is not. These are anomalies which should be corrected as soon as possible but which nevertheless create additional challenges for prison leaders.

Prisons have a responsibility to ensure that offenders do not pose a threat to or harm other people, but they must also attempt to rehabilitate offenders so that they may one day return to society to lead productive crime free lives.

Prisons play an essential role in society. They are crucial to human and public security. Yet, the task of building and managing fair, humane, and effective prisons is rarely given a high priority. Governments understandably have other funding priorities such as housing, transportation, infrastructure, education, health, defence, etc. Moreover public perception of prisoners is generally negative and there is rarely much public support to spend more public funds on prisons. Prison leaders often have to deal with

a fairly narrow public view of the goals of imprisonment. Most people would prefer to see prisoners punished rather than rehabilitated.

“All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

International Covenant on Civil and Political Rights, Article 10 (1)

International human rights law provides a framework to guide prison management and prison reform. Human rights are universal values and legal guarantees which protect individuals and groups against actions and omission primarily by State actions that interfere with fundamental freedoms, entitlements and human dignity. Human rights are universal, interdependent and indivisible.

Human rights based approach to prison management

The Handbook and accompanying curriculum are based on a human rights approach to good prison management. They emphasize the importance of international human rights standards.

The Universal Declaration on Human Rights, 1948 (UDHR) is built on the fundamental principle that human rights are based on the “inherent dignity of all members of the human family” and are the “foundation of freedom, justice and peace in the world”. Three articles of the UDHR are particularly relevant here:

Article 3.

Everyone has the right to life, liberty and security of person.

Article 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 9.

No one shall be subjected to arbitrary arrest, detention or exile.

Prisons, we should all agree, must only be used as a last resort, to detain convicted criminal offenders and persons accused of a crime who are awaiting trial or a disposition of their case. In both instances, alternatives to imprisonment should be used whenever appropriate.

In any society, there are people who believe that imprisonment should not only impose the deprivation of liberty but also include additional punishment and hardship. This approach is not one that is supported by international standards and norms. In fact, Principle 5 of the Basic Principles for the Treatment of Prisoners affirms that, except for those limitations that are demonstrably necessitated by the fact of incarceration, prisoners shall retain all their human rights and fundamental freedoms. The prison leader has to work with the community and assume responsibility for informing the public.

Sufficient human, physical and financial resources are rarely made available to prison systems; more rarely so in developing countries or in post-conflict situations. At the best of times, there is only lukewarm public support for investing in prison reform or capacity building. In hard times, the population usually has other investment priorities for the public purse.

Leaders who can bring about change within their organization are required in every prison system. The best and most respected of leaders lead by example and high moral values. They are guided by a strong sense of fairness, respect for others, and commitment to the rule of law. Leaders who manage through fear, deception or manipulation rarely achieve lasting results and they certainly do not gain respect from those around them. Effective change within organizations can only take place if relationships among people are based on mutual respect and trust. During workshops using this Handbook, it is important to reflect on effective leadership and how it manifests and affirms itself within a prison setting. There is an ever present need for leaders who have a compelling and clear vision of the changes they want to make, who can motivate and mobilize staff and colleagues, and command respect so that others may be inspired to follow their lead and be guided by their decisions.

Among the many challenges they face, prison managers in developing or post-conflict countries typically have to work with very poor facilities, few resources, poorly trained staff, and an undeveloped policy and regulatory framework. They also tend to have very little information about who is in prison, why they have been incarcerated and how long they have to be detained. Prison registries and data are often destroyed during conflict and war. Even when a reasonably good prison registry and records system exists, there usually is no systematic data collection process on the prison population. A comprehensive assessment of existing prison facilities and their resources probably does not exist either. In any country, effective prison reform is only possible with a clear assessment of the prison system and those in it. Effective prison management is only possible when good information systems are in place to support decisions made throughout the prison system.

What is also crucial within any prison system is to have effective prison rules and operational policies that are clear, well drafted, fair, and comprehensive. Regulations should be updated regularly and reflect changes in circumstances and policies. They should also be consistent with relevant national and international law. In order for prisons to run well, prison rules must be current and enforceable, as well as enforced. This Handbook does not specifically address the contents of prison rules and regulations, and it assumes that prison rules and policies are based on human rights and the rule of law. When they are not, that is obviously something that requires the immediate attention of prison leaders and sometimes also the legislator.

International standards and norms relating to the administration of criminal justice, and in particular to prisons, can provide prison leaders with an important value-based framework to guide the reconstruction of their prison system and to inspire some urgent reforms. The present Handbook will be constantly referring to them.

Prison leaders, because they are expected to lead these prison reforms, must have opportunities to better understand these standards, to reflect on how they can be applied domestically, and to elaborate practical strategies for their implementation as part of an overall strategy to rebuild the system.

Prison leaders must work closely and carefully with donor agencies and providers of technical assistance to ensure that any assistance they receive fits into their own strategies and plans to build their institutional capacity. They must think strategically, take the time to properly plan the reform process, and learn to anticipate obstacles and difficulties as well as the inertia and the resistance that they will necessarily encounter in bringing about change in an essentially conservative environment. They must also keep in mind that their institutions are part of much larger justice and governance systems and that the success of their own efforts as prison leaders will also depend on the success of other leaders in other parts of the justice system and the government. If they are wise, they will also make sure that they draw lessons from the experience of other leaders in the field and try to identify best practices and adapt them to their own situations.

Leading change

“And it must be remembered that there is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than to take the lead in the introduction of a new order of things. Because the innovator has for enemies all those who may do well under the old conditions, and lukewarm defenders in those who may do well under the new.”

Niccolò Machiavelli (1532): *The Prince*.

Because the great majority of prison leaders who will be using this Handbook will be facing the daunting task of introducing complex reforms within their own institution or prison system, it will be important to consider some of the basic lessons learned from the field of organization theory and organizational change, and the role of individual leaders in that context. Throughout the Handbook and the workshop, leaders will constantly be invited to think about how they could build a coalition for change both inside and outside their own organization, leverage various sources of support for reform either inside or outside the institution, and develop strategies for sharing some of their own leadership responsibilities with other capable leaders. In a sense, they will be invited to reflect on how to build a “reform team”, how they can and must value the human resources available to them, recruit the right individuals, empower other trusted members of their team, and generally build the performance and efficiency of their team.

As mentioned before, this Handbook is meant to support a short training workshop that provides an opportunity for a group of prison leaders to openly explore and discuss the subject matter with their colleagues, to learn from each other, to think about how to become better leaders, and to engage together in creative problem solving.

Purposes of the training workshop

1. Serve as an informal assessment of the situation of prisons in the country.
2. Engage senior prison managers in the identification and articulation of challenges and issues they encounter.
3. Provide managers with a human rights based framework to analyze the need for change in their prison system.
4. Expose senior managers to international human rights standards and encourage them to reflect on the relevance of these standards to the situation in their country and in their own institution.
5. Introduce some concepts and best practices for implementing necessary reforms.
6. Engage senior managers in a strategic thinking planning process and encourage them to anticipate reform implementation issues.



How to use the Handbook

This Handbook contains 16 chapters and is intended to be used in conjunction with a five-day training workshop on prison management. The workshop is structured around five modules, one for each day. Each module covers several chapters of the Handbook. Trainers may wish to adapt the method of delivery of the modules over a longer period of time, for example one module over two days or one chapter a day. However, it is a rare occasion when busy prison managers can afford to be away from their institution for a prolonged period of time. The workshop curriculum has therefore been designed for a more standard and intensive five-day training period.

The chapters in the Handbook are arranged in logical sequence and many of them are related closely to others. It made sense therefore to cluster several of them into a given module and to plan to address a number of related issues on the same day. Trainers and participants in the workshop should therefore familiarize themselves with the overall structure of the workshop and how it relates to the various chapters of the Handbook. At the beginning of the workshop, trainers should take the time to review and discuss with participants the objectives and structure of the workshop and the overall layout of the Handbook.

The organization of the workshop and the Handbook in a modular format is meant to introduce some necessary flexibility in the delivery of the workshop. Each group of participants will bring its own experience, background, and issues. The contents of the Handbook are meant to support the discussions and not to dictate the direction that they take. There may be a need for a particular group to pay more attention to some issues that have become critical in their environment or to pay less attention to a module with which participants are already familiar. The curriculum provides a basic structure, yet, it also allows the instructors and participants to be guided by the normal flow of the group's learning process and to decide to place more emphasis, as required, on questions and challenges with which they are struggling. Instructors are encouraged to engage, at the beginning of the workshop, in a discussion with participants about their own learning objectives and priorities and how they can be accommodated within the proposed curriculum.

The table below summarizes the main modules of the curriculum and how they relate to the various chapters of the Handbook.

The Plan for the Workshop

Day 1

Participants are reminded of their role and responsibilities as prison leaders including the role of protecting society against crime and upholding the rights of prisoners. Free and honest discussion is encouraged among participants of the problems and issues they face as leaders and managers. The relevance of international human rights standards and the prison leaders' responsibility to implement them within their own institution and prison service is emphasized. Participants are invited to discuss the challenges of bringing significant organizational changes in the prison system context. Participants review together the national legal framework within which prisons operate and consider together how existing policies, regulations and practices may be in need of reform in order to be brought into compliance with international standards.

Module 1

Prison leadership within the context of international human rights standards and the national legal framework

Chapter 1—Identification of current challenges
 Chapter 2—Effective leadership
 Chapter 3—Human rights, international standards and good prison management
 Chapter 4—Importance of the legal framework, policies and regulations

Day 2

Participants are reminded of the basic principles of good management in a prison setting and the main aspects of management are reviewed; this serves as a general introduction to a more detailed treatment of these questions in future sessions of the workshop. The module also emphasizes the responsibilities that fall on the shoulders of prison leaders: along with authority and power, also come some heavy responsibilities. Participants are invited to reflect on the main elements of a suitable accountability structure within a prison or a prison service.

Module 2

Management of human, financial and physical resources and principles of accountability

Chapter 5—Management and accountability
 Chapter 6—Management of human and financial resources
 Chapter 7—Management of physical facilities

Day 3

The day is devoted to the challenges associated with the responsibility to provide for the basic needs of prisoners, including measures for the general health and welfare of all inmates. Special attention is given to the needs and special circumstances of prisoners who may be particularly vulnerable as a result of their age, gender, mental health, ethnic background or any other characteristics. A whole session is devoted to the needs and rights of children and youth in prison.

<p>Module 3</p> <p>Meeting the basic needs of offenders</p>	<p>Chapter 8—Meeting the basic needs of prisoners</p> <p>Chapter 9—Vulnerable prisoners</p> <p>Chapter 10—Children and youth in prison</p>
<p>Day 4</p> <p>Participants focus on a number of practical issues relating to the management of the prison population, including questions relating to: the prison registry and records systems; inmates' intake, assessment, and classification; admission and release procedures; prisoners transfer procedures; and, temporarily release procedures. The focus is also on safety and security issues, the use of discipline. This module encourages participants to think more broadly about security and safety as well as the immediate need to prevent escapes and harmful behaviour within the prison.</p>	
<p>Module 4</p> <p>Managing the prison population and control and discipline within the prison</p>	<p>Chapter 11—Managing the prison population</p> <p>Chapter 12—Safety and security, control and discipline within prisons</p> <p>Chapter 13—Conditional release of offenders</p>
<p>Day 5</p> <p>Prison managers usually do not have much influence in determining who is incarcerated, but they can nevertheless encourage the use of alternatives to incarceration. The module introduces different models of alternatives to incarceration. The module also encourages a discussion of various independent oversight mechanisms to ensure the integrity of prison management and to protect the rights of staff and inmates. The module concludes with a session on the importance of strategic planning and strategic action to promote change within a prison service and to bring existing practices into compliance with international human rights standards. The module can be concluded, time permitting, by a short strategic planning exercise.</p>	
<p>Module 5</p> <p>Alternatives to incarceration, oversight mechanisms, and strategic approaches.</p>	<p>Chapter 14—Alternatives to imprisonment</p> <p>Chapter 15—Oversight mechanisms</p> <p>Chapter 16—Overcoming challenges: strategic approaches</p>

The workshop and this companion Handbook aim to strengthen a value-based leadership approach to prison reform and prison capacity building. The workshop should achieve several interrelated objectives. Firstly, in the absence of a comprehensive assessment of the prison system in a country, the workshop is designed in such a way that it allows participants from a same prison system to work together in order to

identify challenges within that system and to engage in some system-wide diagnostic or assessment of the situation. If a comprehensive assessment has already been conducted, a review and discussion of the main findings of this assessment would be an appropriate exercise as part of module 1.

Secondly, the workshop provides each manager with a human rights based framework to identify and articulate the many challenges and issues with which they are currently confronted. The workshop exposes participants to existing international standards relating to prisons and criminal sanctions and allows them to reflect on the relevance of these standards and their implications for the national or local situation. At the same time, the workshop introduces some concepts and best practices with respect to the implementation of human rights standards as part of good prison management. Discussions should be encouraged around the theme of practical applications on international standards and best practices and their adaptation to the national context. Finally, the workshop offers participants an opportunity to engage in some planning exercises and to benefit from the feedback and input that they can provide each other. It would be very useful if each participant was provided with a complete set of the sources of international standards and norms relating to prisons and the treatment of prisoners listed in chapter 3 on Human Rights, International Standards and Good Prison Management and which can be found online at: www.unodc.org/unodc/en/justice-and-prison-reform/compendium.html.

This Handbook was developed to support the learning and planning process that will take place during the workshop. It offers materials that can inform various presentations and discussions. Each of the chapters introduces an important aspect of prison management, with specific references as necessary to the human rights framework. The 16 chapters generally follow the same six-point structure:

- **Introduction** of the focus of the lesson and its purpose, presented within the relevant context
- **Learning objectives** pursued during the lesson
- **International standards and norms** relevant to the topic at hand
- **Issues and challenges** associated with the specific aspect of prison management being discussed (as an invitation to participants to identify the issues that are relevant to them in their own context)
- **Activities and discussion topics** suggested for the workshop
- **Review** of the main points raised in the chapter



1. Identification of current challenges

Introduction

This chapter aims to encourage participants to identify the many challenges they face as prison leaders in managing a prison. They are encouraged to consider both the daily practical problems they face, as well as the broader challenges they have met or should anticipate in bringing their institutions into compliance with international human rights standards and norms. It is supposed to consist, at least in part, of a free and open brain storming session to which all participants are invited to contribute and verbalize their thoughts about the challenges they face. Expression of both negative as well as positive experiences can be encouraged. However, care should be taken not to allow this session to become excessively emotional or an individual's opportunity to list every single frustration in their work life. The main purpose of this session is to map out the issues and challenges to be discussed during the rest of the workshop.

It is important during this session that participants establish a supportive dialogue among themselves and agree to work as a team. The whole workshop should be structured so as to give participants a first-hand experience of cooperative problem-solving and change planning experience. Relationships built during this and other training sessions can become a source of support for participants after they return to their respective institutions or offices. Leadership is not only important in terms of establishing and exercising authority within a prison but also in terms of contributing to the overall management of the prison system as a whole and collaborating with other components of the criminal justice system. This chapter is loosely structured to allow for a wide discussion of issues and to identify the participants' own learning objectives. At this stage, participants are not yet expected to prioritize the issues or even reflect on solutions. The issues identified should be recorded on a chart for possible future reference during other sessions. At the very end of the workshop, as part of strategic planning exercise, participants can be invited to reconsider the list of issues they have initially identified, to reformulate it as necessary and to use them as a basis for a planning exercise.



Learning objectives

- Participants will identify the main challenges currently associated with managing their prison.
- Participants will identify any additional challenges they can anticipate while attempting to bring their institution in compliance with international norms and standards.
- Participants will identify some of the prison system's basic capacity shortages and deficits.
- Participants will compare their own experience with that of other participants.

Issues and challenges

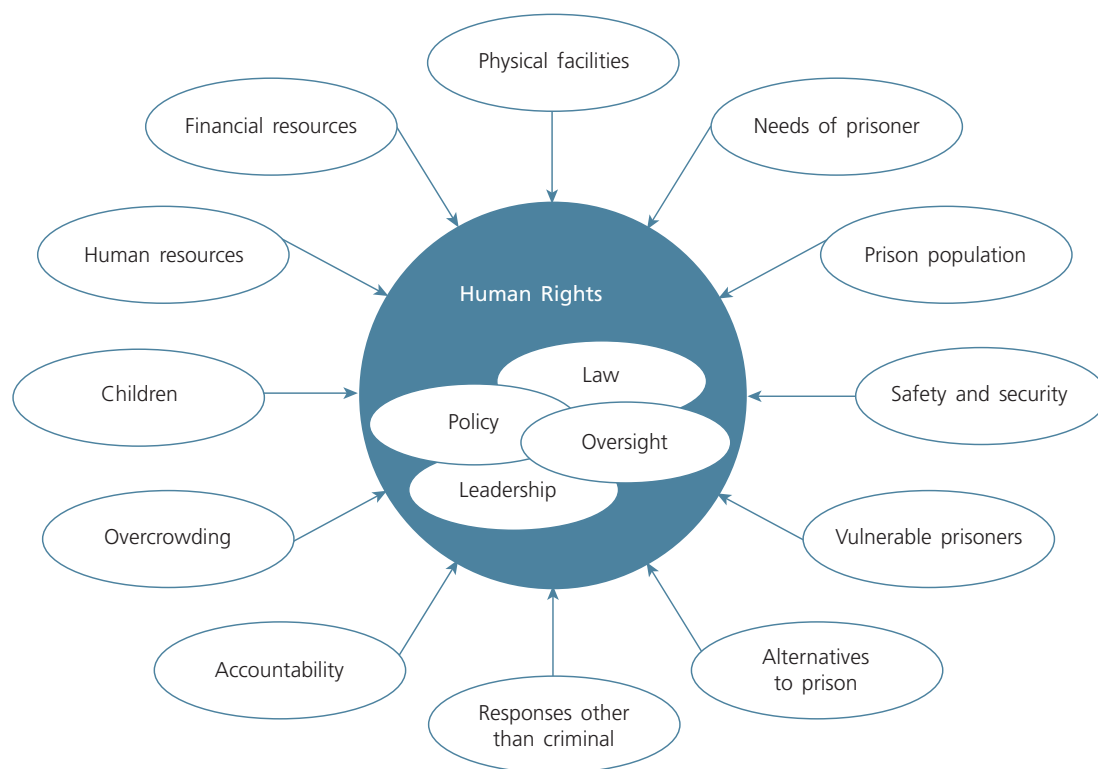
A preliminary identification of issues is likely to reveal that many of them are indeed the results of social, political, and environmental factors over which prison managers have little control. However, we must understand how these different issues are interrelated in order to begin to address them more effectively. Part of the discussion in this session will also focus on the links between the prison system and the rest of the criminal justice system. How the criminal justice system deals with offenders determines the size and composition of the prison population. In planning reforms of the prison system, one should be aware that the efficient management of prisons and the humane and fair treatment of prisoners do not depend solely on the actions of prison authorities. What happens in prisons is related to how the criminal justice system as a whole is managed, and what pressures that system is under from external factors.

In post conflict situations the prison system can often face large issues regarding composition, support, and restructuring. Often data will be lost or destroyed making the reason for imprisonment unclear. In situations where there is a lack of support infrastructure, the composition may be comprised of opposition supporters and the mentally ill. This will often lead to overcrowding in the prison system, and the burdening of the legal system. Other post conflict societal pressures will often impact the prison system in that the end of the conflict will bring a period of demilitarization and demobilization. In some systems the ex-combatants are barred from joining public service while in others these trained individuals who are now in transition may become incorporated into the justice system as prison officers. With the sudden influx of people it is necessary to undergo due diligence in the interview process and the vetting of prison officials. This will work towards the employment of the best, as well as ensure adherence to human rights standards and international norms. The reformation of the prison system is an important dividend of peace in the search for social justice and development.

The extent to which the criminal justice system in general, and imprisonment in particular, is seen as the answer to social problems is often the result of public attitudes that can have a deep impact on the use of prisons in a country. In dire circumstances,

where other institutions do not exist or are failing, prisons are unfortunately used sometimes to address other social needs. In the absence of mental health institutions and orphanages, for example, they are used to house mentally ill individuals, street children or orphans. The lack of alternatives to prisons forces them to perform functions for which they are not equipped, often with dreadful consequences for those involved.

The following figure illustrates several categories of issues that typically pose difficult challenges for prison managers. For each category there exist human rights standards that can offer guidance on what is the right action to take. Of course, one of the main obstacles that is faced, particularly in developing countries is the shortage of financial resources. As will be seen later, there may be ways to mobilize funds from community groups, international donors and organizations, the government itself, or from prison industries including farms. Prison leaders must develop their own ability not only to administer resources wisely and efficiently, but also to generate resources and revenues. At times, the lack of resources will test prison managers' ingenuity, creativity, and resolve to their limits.



At the centre of the figure above, one finds four main engines of change: law (legal reform); policy formulation and implementation; oversight and transparency; and leadership. All of these engines can be actively supported by civil society which clearly has a role to play in democratic societies in advocating for reforms and supporting them. The Handbook and the workshop address each one of these dimensions and encourage participants to reflect on their own role, as leaders, in bringing about change in their respective institutions and in the prison system as a whole.

An official statement on prison policy issued by the government may assist those responsible for managing prisons by providing direction and guidance for current and future reforms. However, such a policy framework (or even a proper legal framework) often does not exist. Prison leaders often find it necessary to work with development partners and government agencies to develop a strategic plan for the prison service and a plan of action for the introduction of the many reforms that are required. They can also consider developing a mission statement and a statement of values to guide the operation of the service.

The task faced by prison managers in balancing the goals of public safety and the objective of helping inmates for a successful return to society is a very difficult one. Radical changes to existing practices are often required and, in the absence of more elaborate mechanisms, a simple but effective planning process is often sufficient to guide these changes.



Activities and discussion topics

In small groups:

- Identify and discuss five major challenges facing prison managers.
- Identify and discuss some of the difficulties that can be anticipated in bringing about changes in prisons.
- Participants review prior prison reform initiatives in which they may have been involved and discuss whether these initiatives were successful and why.

As a whole group:

- A resource person may be invited to present an example of a particular prison reform initiative in another country and highlight some of the lessons learned about the process of reform itself. Participants are encouraged to ask questions of the resource person. Participants are invited to relate the experience presented to them to some of their own experiences of change in the prison context.
- List the issues identified by the small groups and identify commonalities in the experience of participants. Save the list of issues for use in future workshop activities.



Review

Prison leaders face numerous challenges, many of which are not within their control. In identifying challenges in their work, it is important for prison leaders to remember that solutions and responses can come from within the institution, within the prison system as a whole, from the community or even from the inmates' families and relatives, or from other parts of the criminal justice system.

Much of what happens in the rest of the criminal justice system impacts greatly on the prison system. A new law which introduces a different sentencing structure may result in an increase in the prison population over a short period of time. Usually policy and law makers do not anticipate the impact of their actions on the prison system. The head of the prison service or the relevant minister could ensure that workshops with prison leaders include officials of the other components of the criminal justice system (prosecutors, judges, ombudspersons, judges controlling the execution of the sentences in the countries where they exist, officials of the ministry of justice and of finance) to analyze problems and find solutions.

In facing some difficult challenges, prison leaders may feel frustrated and helpless. It is important for the prison system to encourage feedback from prison leaders to the central prison service management in order for local circumstances and issues to be factored into central decision making.

Prison leaders should meet regularly to share their concerns as well as experiences and ideas. Meetings should be facilitated so that experiences and good ideas are shared and perhaps made transferable to other prisons. Good and innovative ideas should be rewarded and encouraged.

2. Effective leadership

Introduction

This chapter focuses on how prison leaders can become effective managers and leaders, and how they may effect change within their own institution. Unlike the first chapter which was more concerned with the issues and problems faced by prison leaders, this chapter is about the leaders themselves and their own skills. It is about various personal aspects of leadership and the wide ranging competencies that good leaders must have or strive to acquire. The purpose of this lesson is to understand the characteristics of good leaders and the role they play in bringing about organizational change within prison settings. Effective leadership is required in order to carry through important prison reforms. The lesson is meant to help participants reflect on their own leadership skills and styles and better appreciate the general characteristics of effective leadership. It is also meant to help participants identify, either from self-reflection or from feedback from others, their own weaknesses in order to strengthen those aspects of their character or behaviour. Being honest with oneself and being able to openly discuss one's own faults and weaknesses will determine how successful this session will be. Participants must feel comfortable and safe in order to truly learn from this session. It is possible to return to this session a bit later in the course once relationships among participants have had a chance to become more familiar and friendly. In fact, for each issue to be discussed in subsequent chapters, it would be essential to relate leadership skills and qualities with the practical ways of resolving the challenges.



Learning objectives

Participants will:

- Become familiar with different models of leadership and their suitability for the prison system.
- Understand how some cultural and social factors may dictate a specific approach to leadership, one that may be more suitable to the prevailing circumstances in their prison service.

- Become familiar with the basic competencies and skills of prison leaders.
- Understand the need to build some leadership capacities around them and to build a leadership team.
- Understand the importance of task forces and task groups and how they can be strategically empowered to effect certain reforms.

International standards and norms

As leaders, prison managers must be aware of all relevant human rights standards and norms and how they may be implemented in the relevant national legislation, policies and in prison practices. Human rights standards and norms are directly relevant to just about every issue covered in this workshop and this Handbook. The next chapter will describe these standards and explain their importance to the work and responsibilities of prison leaders.

Issues and challenges

Good leaders are people who can inspire their staff and who are able to offer their staff a sense of self-worth and personal value. They know how to build strong teams of committed professionals who are dedicated to the objectives of the institution and are not afraid of change. They are individuals who possess a clear vision and a sense of direction and purpose. They have developed above average inter-personal and communication skills, are sensitive to the needs of others, are open to constructive criticism, can deal with difficult situations in a calm and logical manner, can delegate authority to others and empower them to succeed, and, most importantly, are themselves governed by strong moral values and ethics in all aspects of their lives.

“But a leader’s dynamism doesn’t come from special powers. It comes from a strong belief in a purpose and a willingness to express that conviction.”

J. M. Kouzes and B. Z. Posner (1995);
The Leadership Challenge.

There are some essential aspects of leadership with which all prison leaders must become very familiar in order to be able to bring change within their own organization. These include:

- How to formulate and communicate clear goals for reform
- How to build a strong coalition of individuals to support the reform and develop alliances for change
- How to motivate people around them

- How to empower other leaders
- How to align the structure of their organization with their vision for the organization/institution
- How to build strong teams—team building
- How to progressively transform the culture of an organization
- How to address inertia and the resistance to change
- How to modify the reward structure within the organization
- How to strategically allocate resources
- How to deal with sabotage, corruption, and other problems
- How to manage conflicts

Good leadership tips

1. View your leadership role as a challenge; don't be afraid to face challenges, take risks, be positive about learning from your mistakes.
2. Build a common and shared vision with your colleagues and staff and ensure the vision includes values and interests of as many of them as possible.
3. Praise and reward individual achievement and successes: this will inspire those around you to want to improve and do more.
4. Be a model for others; encourage feedback from others and provide the same to your colleagues; build trust and real cooperation by effective delegation of authority and empowering staff to take the initiative and developing their own competence and confidence.

Leaders' qualities often include:

- **Clarity:** Being clear about their goals. They are sure about their own goals and those of the organization.
- **Determination:** Having and projecting a visible determination to achieve their goals and objectives. If their determination falters, it will affect the morale of all those who follow them.
- **Perseverance:** They must persevere in the course of their work and tirelessly pursue their goals.
- **Good communicators:** Not only having and sustaining their vision and goals, but being able to effectively communicate them throughout the organization, eventually getting others to “buy in”. They take the time to explain their goals to others in terms that they will understand.

- **Authority:** Being able to command authority and ensuring that their instructions and decisions are carried out effectively
- **Values:** Setting an example to all in terms of their values and how it guides their conduct; having one's own conduct set the standard by which the conduct of others can be measured.
- **Relationships:** Being able to build meaningful and effective relationships with other leaders and fellow managers and to effectively delegate responsibilities and authority to them and to hold them accountable for their decision and performance.
- **Team building:** Being able to draw from the best abilities and characteristics of team members and staff, to establish a team spirit among them so that they work well together in cooperation as opposed to competing with each other. Empowering others and building the capacity of various teams to accomplish complex tasks.
- **Decisive:** Being decisive and able to develop good decision-making processes throughout the organization.
- **Change agents:** Being able to manage change within the institution and to deal effectively with any resistance to change.

Part of the challenges faced by prison leaders will be alleviated by the alliances they can create with other leaders inside and outside the organization. They must become experts at developing good relations with other governmental organizations especially those within the criminal justice system, as well as non-governmental organizations which may be able to support prison programmes, and the community. Their success will depend in part on their ability to collaborate with other governmental agencies and with civil society and gain access to the necessary resources from governmental agencies, international organizations, and community groups in order to support their reforms they are proposing.

Effective leadership is also about managing change, transforming organizations and improving their performance. Effecting organizational changes within structured institutions such as the prisons is a complex task involving many layers of staff and management as well as other organizations. Of course there is also the impact on prisoners themselves that will need to be considered with any change. Managing change in the right way may mean the difference between successful transformation and frustrating failure.

The chart below shows five elements of a process that should be well understood during this session.



We can thus refer to five moments within the process of organizational change:

1. Setting an appropriate vision/aspiration for change

In order to get off to a good start, what is important is a clear understanding, at the outset, of the change that one wishes to bring to the organization, followed by a clear articulation and communication to others of the nature of that change and why it is required.

2. Making the vision come alive

Good leaders know how to help unleash new ideas, but they also know that it is important to have a disciplined process for generating, developing and evaluating ideas. Four types of ideas need to be discussed and understood within the organization: Why change? What to change? Whom to change? How to change? Remember that new ideas are rarely perfect when they are first expressed; they often need to grow and develop over time and further thought. How new ideas are received and treated is a good indication of how open an organization and a leader is to change.

3. Breaking down the vision into clear and logical initiatives (small components/manageable pieces)

Without establishing priorities and determining clear objectives, great ideas can still have little impact. The goals must be broken down into smaller initiatives or tasks that are logically related to the goal. The various initiatives must be organized sequentially into components that are manageable and realistic for those who will be tasked with carrying them out. People must be clear about how the tasks relate to one another and they must take an interest in the task itself. If people do not see the point of the task they are given, they are less likely to do the job with any enthusiasm or energy. Task groups and teams can be created to accomplish these initiatives and be empowered to bring change in their respective areas.

4. Creating an “engine for change” (mobilizing people and sustaining the transformation)

The leaders must not only ignite, but also fuel and sustain the transformation engine. Many proposed changes generate some enthusiasm, excitement, even hope, at their beginning but they fail to harness that enthusiasm and channel it behind concrete initiatives and actions. It is not enough to create energy, that energy must also be harnessed and channelled appropriately. All those involved (down to the front line level) must receive clear directions and develop an understanding of how they themselves can contribute to the overall goal, to the transformation of their institution. Without a shared sense of direction the support for the proposed change will vanish quickly. The priorities for action must be clear. Conflicting priorities cannot be tolerated. Good leaders rely on a range of catalysts, as practical mechanisms to mobilize and sustain energy: they appoint champions, provide role models, offer training, create a structure, establish a task force, change the incentive structure, provide new incentives, etc. At times, the leaders must be prepared to intervene personally and actively drive the pace of change, deal with obstacles, interferences, and attempts at sabotage, and the always pervasive organizational inertia.

5. Consolidating change

Structures, systems, policies, rules and regulations, as well as incentives can be used to align individuals with the goals of the changes and the transformed organization. Policies and practices must be reviewed and brought in line with the new structure and systems. Successful changes, even when partial, must be acknowledged, communicated, and celebrated.



Activities and discussion topics

In small groups, discuss the following:

- How to motivate staff and prisoners, e.g., timely encouragements, reward structure, and celebration of success.
- How to motivate other leaders around oneself and build a strong team.
- How to improve one's communication skills as well as communication practices and systems within the institution.
- How to improve strategic thinking skills and processes.
- How to deal with resistance to change among staff and among prisoners.
- How to deal with staff who do not cooperate and disrupt the team dynamic.
- How to improve division of labour and responsibilities in prison, specialization of functions and how to ensure training is appropriate to those functions.
- How to improve reporting and accountability practices and monitoring of performance.
- How to improve performance feedback mechanisms so that it results in continuous improvement.
- How to assess one's own progress and competence.

As a whole group:

- Participants may be invited to describe the organizational structure of their prison, the authority structure within the prison and within the prison system as a whole. They can be invited to discuss how decisions are made within their institution.
- Participants may be invited to discuss the role of values in leadership and in promoting change.
- Participants may be invited to discuss their own style of leadership and their experience in managing change and dealing with resistance to change.
- Participants may be invited to reflect on the so-called "resistance" to change within organizations (including their own) and how a leader can address that problem.
- Participants may be invited to complete a self administered test on leadership styles and skills which can then serve as a basis for a discussion on leadership styles and skills as they relate to organizational change.

- Create an imaginary but life like example of and have a group discussion about the different ways each participant would approach the issue, encouraging participants to make constructive criticisms. The group can also break up into teams to resolve the same issue this time as a collective rather than an individual.



Review

1. Change within countries, legal systems, or prison facilities can only come about with the right kind of leadership.
2. Effective leadership requires a compelling vision, a clear policy direction, and properly defined and coherent objectives that can be communicated clearly.
3. It is important for good leaders to have the support from higher ranking officials in order to carry out their work.
4. Good leaders are able to delegate responsibilities and authority effectively and not try to control and retain all the decisions to themselves.
5. Good leaders are good team builders. They are able to identify leaders among their officers and staff and harness cooperation around certain activities or tasks.
6. Good leaders must have good communication skills. Much of the prison rules and regulations and job descriptions will inform officers and staff what is expected of them but leaders must also convey what kinds of discretion they may exercise, what their deadlines are for a certain task, what additional tasks are to be performed and how. Good communication comprises a mix of approaches e.g. it may involve putting some things in writing so that everyone has access to that information; it also involves both formal and informal discussions and meetings with both larger and smaller groups. Communication and direct contact with the leader should be made easy and leaders should have an open door policy so that officers may approach the leader if necessary. Access to the leader and any other senior staff is critical to good leadership and communication. This point is of particular relevance in countries where the penitentiary system is being run using military ranks or by the armed forces or the police. Due to the nature of this two institutions the information and orders are directed vertically downwards from the upper to the lower ranks. No horizontal interaction is allowed within the different ranks in the scale, and it is normally forbidden for an official in any rank in the scale to directly access a person or a leader in a higher rank than the rank of his or her immediate superior.
7. Good leaders establish strong and supportive relationships with their staff based on trust and mutual respect and they ensure that their staff understands what is expected of them. Good leaders engage and consult with staff, seek to build consensus around a course of action, and always make sure that their decisions are well aligned with their values, human rights standards and the principles of the Rule of Law.

8. Good leaders hold themselves and others accountable for their actions, are generous with their praises, and careful about their criticisms. Good leaders are always aware of their objectives and what they are trying to achieve in giving out praise and criticism. Good leaders do not express criticism in order to humiliate or degrade staff but to encourage them to do better and make improvements.
9. Effective leaders must establish and maintain close and constructive relationships with governmental and non-governmental agencies as well as other community groups outside the prison to ensure there is cooperation, coordination and assistance when they are needed. Within the criminal justice system, it is important for prison leaders to have a cooperative relationship with law enforcement.

3. Human rights, international standards and good prison management

Introduction

In this chapter, participants will learn how and why international standards and norms are directly relevant to good prison management. International standards and norms relating to imprisonment, prisons, prisoners and prison officers are based on a number of universal and fundamental human rights which are enshrined in international law. These rights apply to all human beings and one of the responsibilities of all governments is to uphold those rights. This means ensuring that all government departments and agencies, in performing their work, are not only mindful of human rights but do not contravene any of them. States have a duty and must ensure that the human rights of the people living within their borders are protected and that every means possible should be used to ensure that protection exists both in law and in practice.

This chapter will familiarize prison leaders with the nature and the sources of international standards pertaining to prisons and imprisonment and will encourage them to reflect on the relevance of these standards in their own context and their own institution.



Learning objectives

- To reflect on the purpose of imprisonment and the nature and importance of international standards pertaining to prisons and imprisonment.
- To understand the leadership role of prison leaders with respect to their responsibility to ensure that human rights are upheld and protected within their institution.
- To understand the different sources of international human rights standards applicable to imprisonment, prisoners and prison.
- To understand the relevance of international standards and norms to the fair and effective administration of justice and, in particular, to the effective management of prisons.
- To identify frequently encountered issues and be able to anticipate potential challenges in applying norms and standards in prisons.

International standards and norms

In order for a prison system to be managed in a fair and humane manner, national legislation, policies and practices must be guided by the international standards developed to protect the human rights of prisoners. When people are detained while they await trial or sentenced to imprisonment, they are deprived of one of their most basic human rights: the right to freedom of movement and residence.

“When the State deprives a person of liberty, it assumes a duty of care for that person. The primary duty of care is to maintain the safety of persons deprived of their liberty. The duty of care also embraces a duty to safeguard the welfare of the individual.”

Penal Reform International (2001)
Making Standards Work.

The deprivation of liberty makes prisoners dependent on the detaining authorities for the respect of their other basic human rights. Prison authorities therefore have a responsibility to ensure not only that the decision to detain an individual is lawful but also that his/her treatment and care, while in detention, is fair and in accordance with their rights.

Basic human rights apply as much to a prisoner as to any other member of society. The only difference is that prisoners cannot enjoy their right to freedom for a set period of time. He or she should otherwise be treated like any other human being, with full respect for their inalienable rights. Punishment does not mean that all the prisoner’s rights are taken away. Prison sentences are a form of punishment which deprives someone of their liberty but not their basic human rights to life, integrity, freedom from torture, slavery, self-development, health, freedom from discrimination or due process of law to name only a few. This concept is very important and forms the basis of this Handbook.

Article 10 (1) of the ICCPR states that: “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

Treating prisoners with humanity and respect is part of the “correctional” process. The prison system must show by example how people should be treated; by treating prisoners fairly and humanely and demonstrating respect for their rights, one can hope that prisoners will learn how to treat others from that example. The objective of imprisonment is to respectfully perform the sentence passed by the Court, and facilitate the rehabilitation of prisoners so as to prepare them for their return to society.

International standards and norms are derived from treaties, conventions, international declarations and resolutions adopted in international and regional governmental forums. Many of them have their roots in human rights defined in international human rights instruments, such as:

- The Universal Declaration of Human Rights
- The International Covenant on Civil and Political Rights
- The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

- Convention on the Rights of the Child
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination against Women

and in regional human rights instruments such as:

- African (Banjul) Charter on Human and Peoples' Rights
- African Charter on The Rights and Welfare of The Child
- African Youth Charter
- American Convention on Human Rights (Organization of American States)
- European Convention on Human Rights
- Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas

The International Covenant on Civil and Political Rights (ICCPR) details the basic civil and political rights of individuals, and duties attached to the State, including:

- The right to life;
- The right to liberty and freedom of movement;
- The right to equality before the law;
- The right to a presumption of innocence until proven guilty;
- The right to be recognized as a person before the law;
- The right to privacy and protection of that privacy by law;
- The right to legal recourse when rights are violated;
- Freedom of thought, conscience, and religion or belief;
- Freedom of opinion and expression;
- Freedom of assembly and association.

It forbids torture and inhuman or degrading treatment, slavery, arbitrary arrest and detention, propaganda advocating either war or hatred based on race, religion, national origin or language. It prohibits discrimination on any basis, such as race, sex, colour, national origin, or language.

The International Covenant of Civil and Political Rights (ICCPR) defines certain rights that are non-derogable, meaning that they must be fully respected at all times and in all circumstances. They include the right to life, the right to be free from torture and other cruel, inhuman or degrading treatment or punishment, the right to be free from slavery and servitude, and the right to be free from retroactive application of penal laws. Prison officials are responsible for ensuring that they do not violate any of these rights.

In the case of human rights treaties, States that are party to a particular treaty have obligations under that treaty. However, international human rights law is not limited to the enumeration of rights within treaties, but also includes rights and freedoms that have become part of customary international law, which means that they bind all states

whether they are party to a particular treaty or not. For example, many of the rights set out in the Universal Declaration of Human Rights adopted in 1948 under a resolution of the General Assembly and well as some of the rights defined in the ICCPR reflect norms of customary international law. Customary international law is an important source of law. It consists of: “(...) rules of law derived from the consistent conduct of states acting out of the belief that the law required them to act that way. It results from a general and consistent practice of states followed out of a sense of legal obligation, so much so that it becomes custom. Customary international law must be derived from a clear consensus among states as exhibited both by widespread conduct and a discernible sense of obligation.”

The notion of *jus cogens*, refers to particular elements of customary international law which are based on a principle of international law which are so fundamental that no State may opt out by way of treaty or otherwise. In other words, they are regarded as being “peremptory” in nature and as enjoying a non-derogable character. The prohibitions of torture, slavery, genocide, racial discrimination and crimes against humanity are widely recognized as peremptory norms.

The absolute prohibition against torture must govern the treatment of prisoners in all circumstances. Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment sets out an internationally agreed definition of acts that constitute “torture”. It states that:

The term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

The “essential elements” of what constitutes torture contained in Article 1 of that Convention include:

- The infliction of severe mental or physical pain or suffering;
- By or with the consent or acquiescence of the state authorities;
- For a specific purpose, such as gaining information, punishment or intimidation.

Cruel treatment, and inhuman or degrading treatment or punishment are also legal terms. These refer to ill-treatment that does not have to be inflicted for a specific purpose, but there must be an intent to expose individuals to the conditions which amount to or result in the ill-treatment. Exposing a person to conditions reasonably believed to constitute ill treatment will entail responsibility for its infliction. Degrading treatment may involve pain or suffering less severe than for torture or cruel or inhuman treatment and will usually involve humiliation and debasement of the victim. The

essential elements, which constitute ill treatment not amounting to torture, would therefore be reduced to:

- Intentional exposure to significant mental or physical pain or suffering;
- By or with the consent or acquiescence of the state authorities.

Article 10 of the Convention requires States Parties to ensure that education and information regarding the prohibition against torture are fully included in the training of officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. States Parties are also required to include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

Article 11 of the same Convention provides that each State Party “shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.”

Article 12 of the Convention requires a State Party to ensure that “its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.”

Article 13 of the Convention require a State Party to “ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.”

In terms of protecting a person’s legal rights and safeguarding him/her against ill treatment and torture, there are a number of fundamental safeguards that should apply from the outset of a person’s detention:

- The right to inform a close relative or someone else of the detained person’s choice of his/her situation immediately (SMR 92, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 16).
- The right of immediate access to a lawyer (Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 17).
- The right to a medical examination and the right of access to a doctor, ideally of the detainee’s own choice, at all times, in addition to any official medical examination. (See SMR 91, Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment, Principle 24).
- The right to be brought “promptly” before a judge for a determination of the legality of the detention and whether it may continue. Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment, Principle 11.

- The right to be informed immediately about the reasons for arrest and rights under the law, in a language they understand. (Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment, Principles 10, 13, and 14).

Prison managers have a duty to ensure that all prisoners under their responsibility were lawfully committed to imprisonment. Arbitrary detention is never justifiable. The United Nations Working Group on Arbitrary Detention in its report to the sixtieth session of the Committee on Human Rights expressed some grave concerns about several instances in arbitrary detention where detainees had no right or means to challenge their unlawful detention. The Committee reiterated that no justification can be used in any circumstances—whether conflict, war, or state of exception—to abrogate the right to challenge unlawful detention.

Ensuring the compliance of national law with international law is typically the responsibility of policy makers and legislators, as opposed to the direct responsibility of criminal justice practitioners. In some legal systems, the judiciary also plays a significant role in that respect. Ensuring that criminal justice and correctional practices are in compliance with national law and applicable international law is the responsibility of all managers and practitioners within the justice and prison systems. Monitoring that compliance and taking action to address non-compliance or provide redress to those who are affected typically falls under the responsibility of legal judicial institutions (including the defence bar and prosecution services) and various institutional oversight mechanisms. Civil society and public information media must also remain vigilant and assume their own responsibility in that regard.

Numerous international standards have been developed to ensure that the human rights of prisoners are protected and that their treatment aims to ensure their social reintegration, as a priority. These standards include the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMRs); the Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment; the Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules); the Rules for the Protection of Juveniles Deprived of their Liberty and the Code of Conduct for Law Enforcement Officials.

The United Nations standards relating to prisons can be broadly grouped into five categories:

1. Treatment of prisoners
2. Juvenile justice
3. Alternatives to imprisonment and restorative justice
4. Torture and other cruel, inhuman or degrading treatment or punishment
5. Capital punishment

There are international instruments relating to each one of these categories. They are listed in the box below. Most of them can be consulted in the *United Nations Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*, available from UNODC. www.unodc.org/unodc/en/justice-and-prison-reform/compendium.html

Sources of International Standards Relating to Prisons and Treatment of Prisoners

Treatment of Prisoners

1. Standard Minimum Rules for the Treatment of Prisoners
2. Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners
3. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
4. Basic Principles for the Treatment of Prisoners
5. Kampala Declaration on Prison Conditions in Africa
6. Status of Foreign Prisoners in Criminal Proceedings
7. Arusha Declaration on Good Prison Practice
8. Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas

Juvenile Justice

9. United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)
10. United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)
11. United Nations Rules for the Protection of Juveniles Deprived of their Liberty
12. Guidelines for Action on Children in the Criminal Justice System

Alternatives to Imprisonment and Restorative Justice

13. Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)
14. Kadoma Declaration on Community Service and Recommendations of the seminar entitled "Criminal justice: the challenge of prison overcrowding", held at San José, Costa Rica, from 3 to 7 February 1997
15. Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

16. Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
17. Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
18. Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Capital Punishment

19. Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty
20. Implementation of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty
21. Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions

Prison managers should be familiar with these standards and have them available for reference. These instruments should be made available to training academies and all senior officials within the prison service, in a language that they understand, so that they are all aware of these standards and understand their relevance to their work. The standards should be integrated in the training material for staff and recruits and be reflected in prison policies, regulations and standing orders. Prison officials also have a duty, as stated in Rule 35(1) of the Standard Minimum Rules for the Treatment of Prisoners, to ensure that all prisoners be informed of their rights and obligations. Prisoners are indeed entitled to know what their rights are and to have access to complaint and redress mechanisms when these rights are not respected. Some prison officials sometimes see their obligation to provide that kind of information to inmates as a hindrance to their efforts to keep inmates under control. However, maintaining control over the inmates needs not be opposed to upholding their rights. Maintaining a balance between ensuring control and upholding the rights of inmates is what distinguishes a progressive and confident leadership from one that is weak and fearful. The topic of control and security will be further addressed in a separate chapter.

Ensuring compliance of all prison practices with relevant international standards is always a challenge. It is particularly difficult in post-conflict situations, countries in transition or in developing countries where resources are lacking and where the capacity of the prisons and other justice institutions is limited.

In general, these international standards are concerned with the respectful treatment of prisoners and detainees and also for the conditions under which they are imprisoned. They address such issues as health, classification and separation, complaints, records, work and recreation, discipline, religion and culture and contact with the outside world.

Issues and challenges

Many of the issues and challenges faced by prison managers in relation to international human rights standards and norms revolve around the implementation of these standards and their adaptation to the conditions that prevail in their own prison system and within their country's legal framework. International standards and norms are ideals

and goals agreed upon by the international community. Achieving those goals is the work and responsibility of the governments themselves. Mapping out how those goals are to be achieved in practice within the prison service is often left in large part to prison officials. Therefore, the rules, regulations, policies, and procedures of a prison service, which themselves must be grounded in the appropriate legislation, are usually the starting point for ensuring compliance with these standards as well as the sound and effective management of the institutions. It is often the case that prison legislation is outdated and in need of reform. Prison leaders can also play a role in promoting the adoption of adequate legislation or the alignment of existing laws with international standards. Chapter 4 will deal with these questions in more detail.



Activities and discussion topics

Participants should be provided ample time to ask questions about human rights law and international standards as they apply to the field of corrections. If asked, the facilitators should be able to explain the sources of international law. The facilitator should be readily able to inform participants about the relevant treaties and conventions to which their country is a party. Relevant regional conventions should also be highlighted during the introductory presentation. The text of the relevant human right law and international standards should be available to the participants for consultation throughout the workshop. Ideally, participants should have access to the standards in their own language.

In small groups consider the following:

- Are you familiar with the rights of prisoners? How well understood are these rights by everyone in your institution? How can that understanding be improved?
- What is your responsibility as prison leaders with respect to the implementation of these standards in their own institution?
- What are the issues and challenges facing you, as prison leaders, in terms of ensuring human rights standards are respected in their prisons?
- Do the prison staffs understand and accept that they must respect and protect the rights of prisoners? If not, how would you approach the task of changing that attitude?
- What are the difficulties encountered by prison leaders in protecting the rights of prisoners and ensuring that all practices with their prison are in compliance with international standards? Give specific examples.
- As an example, what measures are typically taken in prisons to ensure that all detentions are lawful? Can these measures be strengthened and how?
- What measures are typically taken in your institutions to prevent torture and cruel and degrading punishment?



Review

The main points to be reviewed will be:

1. Fundamental human rights provide the basis for international standards and norms relating to people in prison.
2. A good understanding of international standards and norms is essential and central to establishing effective prison management.
3. There are numerous sources of international standards and norms. They cover almost every aspect of prison management.
4. Prison leaders have a personal responsibility to ensure that the rights of prisoners are respected at all times and to deal with instances where these rights are being abused.
5. A challenge for prison leaders is to ensure the protection of the rights of prisoners without compromising the security and safety of society and the safety of prisoners and prison staff.
6. International justice and human rights standards should be reflected in every prison policy, regulation, and procedure.
7. Staff training should include training on the standards and human rights principles that must guide their work and their interactions with inmates.
8. There cannot be any tolerance of unlawful detention, torture, cruel, inhumane or degrading punishment within the prison system.
9. International standards must be communicated clearly to the prison staff and prison leaders must constantly reinforce their importance.
10. Prisoners must be informed of their rights and obligations.

4. Importance of the legal framework, policies and regulations

Introduction

The purpose of this chapter is to highlight the importance of the legal and policy framework that must guide the operation of prisons. Prison leaders often find themselves having to work within an outdated and antiquated legislative framework which hinders rather than supports prison reform. The legislative framework may itself be in contravention of human rights law and international standards. In post-conflict situations, prison leaders often find themselves operating within a legal vacuum with respect to many of their roles. For example, previous laws may no longer be in effect and new ones may not have been developed. The criminal law may itself be in a state of flux, thus causing a lot of ambiguity with respect to lawfulness of the detention of certain inmates and the authority of prison officials to intervene. It may be necessary to develop and implement interim or temporary policies and regulations during this period. International standards and norms can provide guidance in these circumstances.



Learning objectives

- To review the legislative framework of the country and consider whether it is in compliance generally with international standards and norms.
- To understand the importance of policies and regulations in the governance of prisons and their effective management.
- To understand some of the basic principles involved in the development of prison policies and regulations and their implementation.

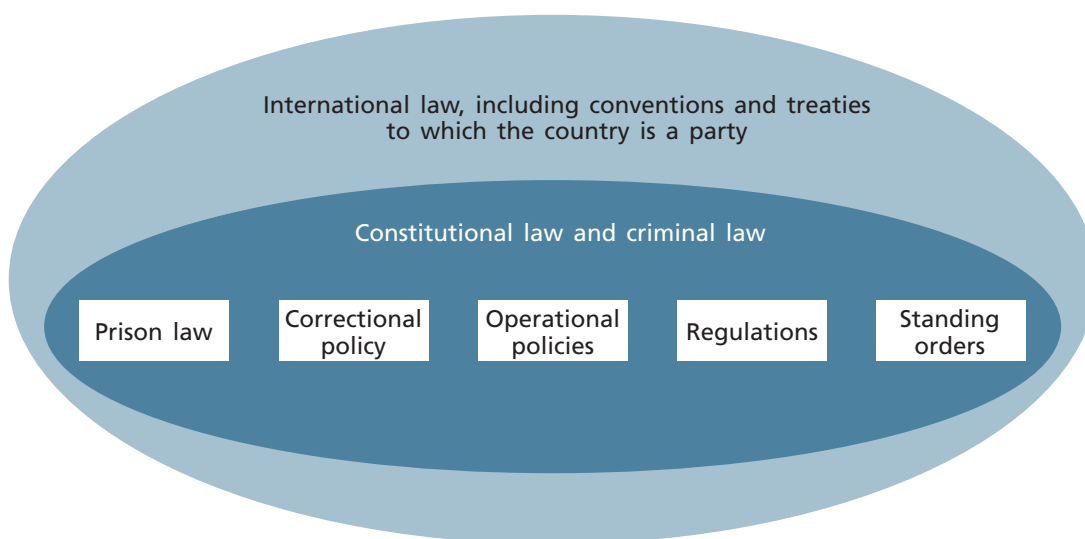
International standards and norms

International standards and norms should be reflected in national legislation regulating prisons and govern every aspect of the policies and regulations adopted by a prison system. Inmates have a right to be informed of these policies and regulations. Policies and norms must be developed in a way that does not constitute unacceptable discrimination between inmates. They must be applied fairly.

Issues and challenges

Ideally, prison policies flow from the prison legislation (and the criminal law) and operational policies are adopted to implement legal rights and regulate prison life in accordance with the law. Prison regulations should flow from national law and prison policies and comply with international standards and norms.

A regulatory framework



In practice, prison policies are not always well aligned with legal norms (international and national) and they often are not well articulated, communicated or applied. It is not rare to find institutions where policies and regulations are insufficient to guide everyday decision making, poorly documented, in contradiction with each other, or even unlawful. In some prison systems, operational policies have not been standardized or have been allowed to evolve in various directions at the whim of individual decision makers. The enforcement of these policies is not always monitored as it should.



Activities and discussion topics

- In smaller groups or in a large group session, the participants should be invited to review some of the key aspects of their national legislation relating to prisons and consider whether the dispositions of the law are in compliance with human rights law and international standards. If material is available from the media or from a local NGO criticising certain aspects of the prison law, that material can be circulated and used to start the discussion.
- A group discussion can be initiated around the question of the responsibility of prison leaders, in a democratic society, to promote correctional law reform and to inform that process.

- The facilitator should identify a particular policy or two that can be analyzed during the workshop (either in small groups or with the group as a whole) and compared to a list of specific international standards prepared in advance of the workshop and translated if necessary.



Review

1. Sound and human rights based laws and regulations around prisons and treatment of offenders are an important basis for good prison management.
2. The legislative framework for the prison system may be in need of serious reforms.
3. The legislative framework may not always be in compliance with human rights law and international standards.
4. Prison leaders are not powerless in the situation discussed above and they can play an active role in promoting a review of the existing legislation and therefore initiating a momentum for correctional law reform.
5. Prison leaders can provide direction and effect important change by leading the development of prison policies, reviewing and amending operation policies, directives, and standing orders and setting in place mechanisms to communicate these policies and ensure their effective implementation.



5. Management and accountability

Introduction

This chapter focuses on responsible leadership and the management of prisons. It introduces various aspects of prison management which will be reviewed in more details later. These include:

- Human resource management
- Financial resource management
- Facilities management
- Security management
- Management of the disciplinary process
- Population management
- Meeting basic needs of offenders
- Information management

It introduces some of the basic components of an effective management process including:

- Organizing the prison functionally
- Facilitating the development of specialized functions and tasks
- Delineating an effective reporting structure
- Ensuring an effective delegation of authority
- Strategic planning
- Establishing effective management information systems
- Performance monitoring
- Establishing an effective accountability structure

The chapter also examines the notion of accountability and reviews some of the mechanisms that can be put in place to promote accountability within a prison service.

Accountability is the yardstick of a good manager and leader. Good prison leaders are expected to be honest and transparent in their decisions and their utilization of human and financial resources at their disposal. They must be people who hold high ethical values and who will confront corruption and dishonesty with the strength and determination to fight them. They must also be honest with themselves and understand their own behaviour. Taking responsibility for their decisions and actions is critical to being accountable.



Learning objectives

- To understand the general nature of the various aspects of prison management and how they effect each other. For example, the overlap of information management and human resources management.
- To understand some of the basic elements of effective management of a prison and the differences between managing a prison and other kinds of institutions i.e. to understand what makes managing a prison unique.
- To understand the definition of accountability in its narrowest and widest application to prison management.
- To examine the different ways in which prison leaders are required to be accountable, to whom and for what.
- To examine how prison leaders can establish a system of accountability for their staff in relation to prisoners.

International standards and norms

International standards and norms may talk about accountability in general terms but they do not prescribe specific standards of accountability. That is left to the government agency or body implementing those standards. In a perfect world, all prisons everywhere would be in compliance with the prison standards and norms mentioned in an earlier chapter. In a prison system committed to respecting human rights and international justice, prison leaders are responsible individually and collectively for implementing these norms and must be accountable for doing so or failing to do so.

Accountability is often used synonymously with the word “responsibility” and it entails being answerable for one’s actions. Prison leaders are not only accountable for their own actions but also responsible for promoting accountability throughout their institution.

A formal accountability structure should exist in each institution and throughout the prison service. Officials responsible for the prison service must be accountable under the law to government authorities. Prison managers must be held accountable for the effective management of prisons, the use of resources, the enforcement of the law and the application of the policies and regulations. All staff must be accountable for their conduct and decisions and in particular for the use of force and restraints, and how they treat offenders in general.

Within the formal structure of government, there is usually a hierarchy of positions and each level is accountable and answerable to the next level. For example, in many countries the prison director is accountable to an official at a regional or national level. The prison director is usually accountable for the smooth and effective running of the prison he or she is in charge of. The accountability process might include regular reports on incidents and prison conditions, or reports justifying certain disciplinary actions, use of force, or decisions taken to change the conditions of prisoners. In many countries, there are other external bodies to which the prison officials are also accountable, e.g. civilian oversight bodies or the courts (further discussion of this can be found in chapter 15 on Oversight Mechanisms). In some countries, there are ways to measure prison performance in terms of costs, effective deployment of human resources, number of prisoners who escape, the number and nature of prisoners' complaints and how those have been dealt with, etc.

Issues and challenges

Good prison management relies on the effective and efficient performance of a number of functions and activities. The major ones are listed below:

- *Human resource management:* Most prison leaders will agree that the most important aspect of prison management is the proper management of their staff. In this sense, human resource management refers to the effective use of people within an organization to enhance performance and achieve organizational objectives. This is done by hiring the best people as well as developing and empowering them within the position. That being said, an essential part of any role within the organization is communication. Improving internal communication among the staff and between the staff and the managers will increase employee morale, support a collaborative approach, encourage individual responsibility and initiative, and minimize grievances.
- *Financial resource management:* For an organization to be successful it is important to implement financial management processes which enable financial sustainability, accountability, and integrity. The processes must obviously rest on sound budgeting and accounting practices. Accepted standards of accounting practices must be adopted and consistently applied in order to allow for independent reviews and audits in order to support financial accountability to internal and external stakeholders. The budgeting, accounting and reporting practices of the prisons and the prison service should be well aligned with the best governmental practices in other sectors. Furthermore a system of checks and balances should be implemented within the prisons financial resource management system to verify accountability for spending and deter corruption.
- *Facilities management:* This area refers to the services necessary for the upkeep and development of the prison. It is important in that it determines what gets done, and by whom. The level that this is developed is specific for the given situation, but it often includes services such as: food preparation, laundry, construction, maintenance, and health care. Many prison systems

achieve a balance of internal and outsourced management of tasks to effectively achieve the organizational goals. It is recommended that the process chosen to complete the objective is transparent and determined by cost efficiency. When choosing to assign duties it is important to keep in mind issues of security, as well as the importance of employing inmates whenever possible. There are few work opportunities in prisons and idleness and boredom are a grave problem. Also workers rights should be respected.

- *Procurement and stores management:* This refers to systems in place to ensure that a prison service obtains best value for money and procures necessary goods in service in a timely and efficient manner for the effective operation of the institutions. Some procurement may be done centrally by other government agencies, while other procurement activities can be done either by the prison service as a whole or by each individual institution. Wherever the procurement is done, the process should be guided by clear policies and guidelines and documented meticulously. This is a management function that is particularly susceptible to corrupt practices and it therefore should be monitored closely by senior managers. Stores management is also a crucial aspect of resource management and should be the responsibility of well trained managers, operating under fairly detailed policies and guidelines. Regular inventory of stores and equipment should be conducted and maintained. The use of all materials, supplies, food stores and the like should be well documented so as to allow both regular inspection and effective planning for the production, purchasing, distribution, and utilization of stores and equipment.
- *Security management:* Refers to measures that prevent or deter prisoners from escaping, or attackers from accessing a facility. Each institution should be striving to achieve a set level of security. The level of security should depend on the nature of the prison and the necessity of security from individuals outside the organization, or threat posed by the potential escape of prisoners. This should be developed in line with a developed security policy for the prison that outlines the specific objectives and functions. Examples of this would include minimum, medium, or maximum security with respectively increasing security levels.
- *Management of the disciplinary process (for both staff and prisoners):* Prisons are institutions that carry out the penalties imposed by the courts, not to add or impose more punishment. Having said this, the prison setting is such that it requires a high degree of structure and order especially within medium or maximum security institutions. However, the discipline required within a prison must be balanced with a strong sense of mutual respect and safety. A high degree of fear and feeling of personal insecurity among staff or prisoners does not reflect a system that is well managed. International norms and standards state that the disciplinary process must be well defined and explained in existing institutional policies and guidelines. The role of various managers in that process should be clearly defined. When a disciplinary decision is made it should be as a result of due process. When a disciplinary action is taken, the action and the process that led to it should be well documented. Every

inmate's file should fully document all disciplinary actions considered or taken against that particular inmate. Staff training should address in detail existing disciplinary policies as well as the processes in place within the institution and their respective roles within these processes. For the disciplinary process to be effective, it should contain a series of checks and balances to minimize instances of abuse. Examples of this may include providing a way for people to report grievances and complaints without fear of retaliation or other adverse effects.

- *Population management:* As discussed in a previous chapter, a prison's core function is to hold those awaiting trial, on trial, awaiting sentencing, or fulfilling a sentence. International standards state that the different categories of detainees should be kept separately.
- *Meeting basic needs of offenders:* Prison managers have a duty to ensure that prisoners' basic needs are adequately met.
- *Information management:* Through a system of effective collection, storage, access, use, and disposal of data, information management can be used to increase knowledge and therefore efficiency in managing prisons. Data should be made available to employees based on the job description, with other data kept under protection. It is important that sensitive employee and inmate information be kept confidential and distributed to people on a strict "need to know" basis. A prison manager's access to good data about the prison population, about the staff, the facilities and other resources is essential for the effective planning of future operations and for just about every aspect of prison management. Good record keeping and other ways of managing the prison population is further explored in chapter 11 on Managing the Prison Population. This is often the starting point of any assessment of a prison system in a post-conflict country because unless this information exists, it is difficult to accurately identify and understand who are in the prisons, why they are there and what their needs are.

Effective management of the prison necessarily involves organizing staff, what their jobs are to be and how best to manage them. Here are some issues which should be brought to the attention of any prison manager:

- *Organizing the prison functionally:* Developing a management structure and delegating responsibilities according to the various functions to be performed within the institution is usually a pre-requisite to organizational effectiveness and to organizational accountability. The definition of the various functions should be aligned with the basic goals of the institution as well as its strategic objectives. Distinguishing between various functions is a way to delegate authority which can help in the efficient allocation of resources and make employees more accountable for their actions. They are less likely to blame someone else for not doing a task if that task is theirs in the first place. The various functions that are essential to the proper management of the institutions must be clearly defined and should be generally understood by everyone in the institution.

- *Establishing some specialized functions and tasks:* Specialization is not only beneficial for increased expertise for individuals, but it also allows management to distinguish between various levels of individual responsibility and accountability. The increased responsibility and personal accomplishment in turn can also have a positive effect on staff morale and job satisfaction. Specialization should be supported through knowledge and skills training as part of the personnel development program for facilitating a career in the service. At the same time, prison managers should ensure that staff have experience in a number of different areas and not be stuck in one job just because they are experts in the job. It is not so much that the person is specialized but that particular job positions have a degree of specialization.
- *Delineating an effective reporting structure:* Regardless of the chosen organizational structure, it is important to have a comprehensive system of reporting to promote effective communication and collaboration throughout the organization. This system must include what levels will be reporting to whom, the nature and extent of the delegated authority and responsibilities as each level, and the reporting requirements.
- *Ensuring an effective delegation of authority:* Within large successful organizations it is impossible for a leader to manage every detail of every aspect of the function and operation of the organization. In other words, “micromanagement” is rarely an effective way to manage a large organization. The responsibility for various tasks, functions and activities must therefore be delegated to others in a clear and efficient manner, together with the authority, the power and the means to effectively carry out these tasks. It is therefore important for leaders to establish a process for the effective delegation of authority to trusted and capable individuals, and for supporting these individuals in carrying out their delegated duties.
- *Strategic planning:* Planning based on past experience, on good management information and a good understanding of one’s strategic goals and objectives is usually a pre-requisite to effective prison management. Ideally, the planning process should be one that engages various levels of management within the institution. The strategic plans, once developed, should be operationalized and well communicated within the institution, and it should serve as a basis for the budgetary process and the strategic allocation of human and material resources. Processes and procedures should also be put in place to monitor the performance of various components of the organization in helping achieve the strategic objectives of the institution. Despite any good plan however, there will always be incidents, such as escapes, fires, hostage taking, suicides, murders, assaults all of which require emergency plans, so these should also be developed.
- *Establishing effective management information systems:* As mentioned above, communication and the flow of information is essential to organizational success. Reliable and timely information (data) is required by managers regarding: the prison population, the staff, the institution’s resources and facilities, the institution’s revenue and expenses, etc. This information must

be collected, collated, stored, analyzed and reported as effectively as possible. An effective system of record keeping, financial management, and data collection is highly recommended. The information management function should be well defined and supported within the structure of the organization and processes of the institution. Managers, at all levels, should play a role in defining and articulating the information requirements of the institution, including their own in relating to the specific function they each are required to perform. The level of sophistication of the information management system and the extent to which it can be supported by modern information technology is something that must be determined by each institution. An incremental approach to the development of such systems and the implementation of modern technology is usually recommended. The information management system should also be one that ensures that sensitive or confidential information is protected and that the measures are in place to ensure the integrity of the information collected and stored.

The United Office on Drugs and Crime has published a *Handbook on Prisoner File Management* (2008) which can be found online:

www.unodc.org/documents/justice-and-prison-reform/Prison_management_handbook.pdf

- *Performance monitoring*: A system which allows managers to monitor the performance of the institution with respect to its various functions is a key element of any strategy to increase performance. It is also important in order to be able to measure whether the strategic goals and objectives of the institution are being achieved. Providing everyone who is responsible for a task or function within the organization with some feedback on how well they are doing is also key to helping them improve their own performance. Good performance monitoring information helps managers identify performance issues before they become critical and to take corrective action to address any perceived performance issues.
- *Centralized versus decentralized models*: There are a number of popular models for prison buildings, but there are fewer models for how to organize a prison service itself. This is because every country's political and governmental structure differs widely and there is no one model that fits all. In a small and highly centralized country, it may make more sense to have a national prison service which centralizes all its main functions except the management of the prisons themselves. In a country of both federal and state/provincial jurisdiction which has both a federal and a state/provincial prison system, it may make sense to decentralize responsibility to the regions or states/provinces. In developing countries which are still struggling to maintain political stability and where there is still much rebuilding and reconstruction to do, it may make sense to begin with a more centralized system of administration and perhaps later, regionalize some of the responsibilities. In any case, whichever

system is used, coordination and communication between local and regional or local and headquarters is important and can easily become a source of difficulty especially in relation to human and financial resource allocation. Outlying regions or provinces, because they are so far from headquarters, are often neglected, ignored, and under-resourced.

Capacity and integrity framework: a simple tool to assess personnel of a public institution

	INDIVIDUAL	ORGANIZATIONAL
CAPACITY	<ul style="list-style-type: none"> • Education • Experience • Aptitude 	<ul style="list-style-type: none"> • Number • Structure • Composition
INTEGRITY	<ul style="list-style-type: none"> • Human rights • Conduct • Propriety 	<ul style="list-style-type: none"> • Accountability • Oversight • Service

The capacity and integrity framework was developed by Serge Rumin and Alexander Mayer-Rieckh, and has been applied in several United Nations peacekeeping operations.

Managing change

A systems approach to managing change involves understanding and managing interrelated processes as a system. Doing so can contribute to the organization's effectiveness and efficiency in achieving its objectives. It involves:

- Systematically defining the initiatives or activities necessary to obtain a desired change.
- Establishing clear responsibility and delegating authority to those charged with these responsibilities.
- Establishing accountability for managing key activities or initiatives.
- Analysing and understanding the potential and actual impact of key activities and initiatives.
- Identifying the interconnectedness of the key activities/initiatives within and between the functions of the organization.
- Focusing on the factors such as resources, methods, tools, and materials that will ensure the success of the key activities/initiatives.
- Monitoring the impact of the key activities/initiatives (feedback on the change produced) and readjusting the activities/initiatives as necessary.

Effective decisions are based on the analysis of data and information. It is important to implement a factual approach to decision making; effective decisions are based on the analysis of data and information and balanced with experience and intuition. Informed decisions are typically the result of:

- Ensuring that the data and information used are sufficiently accurate and reliable.
- Making data and information accessible to those who need it to make decisions.
- Analysing data and information using valid methods.

“Command and control” is a common way of managing prisons as well as other forms of law enforcement agencies. However, this type of management style does not always result in the most effective use of staff and does not necessarily lead to respect by the rank and file for those in positions of leadership. It should be replaced, except in extreme circumstances, with a more collaborative and consensus building style so that prison staff feel valued and appreciated. Obviously in the event of emergencies and rioting, there must be strict protocol in place, but during a normal working period, it may be possible to move to a different style of leadership. The challenge in this case is one of how and when to be flexible in leadership style in order to bring about the most effective results while still commanding authority and respect of staff.

No matter what style of leadership is preferred by prison leaders, they are responsible individually and collectively for what happens in their respective institutions.

In countries with a relatively developed correctional system, effective accountability mechanisms and process have been set in place within the prisons and outside of the prison system. Some of the ways in which prison leaders can encourage accountability throughout an institution or a whole prison system are:

- Demonstrating personal integrity and ethics in order to create a positive organizational culture. Staff and inmates will look to prison management to set an example and to set the tone of the institution. If leaders do not show integrity and professional ethics in their behaviour and decisions, others should perhaps not be expected to do so.
- Being accountable and taking responsibility for one’s own actions and creating an atmosphere of transparency. This is especially important when a mistake or wrong decision has been made. Facing an error and taking steps to correct it is far easier than to allowing it to continue and grow into a larger problem and then to be forced to address it later. People generally have more respect for leaders who are willing to accept responsibility and, if necessary, take the blame for their own mistakes.
- Setting clear boundaries within the organization to define acceptable and unacceptable behaviour. Clear communication with staff and prisoners on all aspects of prison rules, regulations, policies and procedures cannot be over-estimated. When everyone is clear about what is expected of them, there tends to be less confusion and greater effectiveness in the performance of duties.

- Being fair and equitable with staff and the prisoners. If the leader is not perceived to be fair and equitable, it will affect staff morale, performance, and compliance with existing rules and procedures. Unfair decisions and practices may also generate discontentment and affect safety and security within the prison.
- Using performance measures as ways to hold prison staff accountable. These can be used to monitor and evaluate job performance and ensure that the system is fair and equitable. Using standard performance measures will ensure that prison staffs are measured by the same standard, which would appear to be fair. Using fair and transparent staff performance measures and process will help the implementation of fair reward and promotion structures and processes.
- Cooperating with oversight mechanisms. It is important that prison leaders respect and work with all oversight mechanisms. This is part of the system of accountability and can demonstrate how transparent the prison leadership is prepared to be. Oversight mechanisms should be viewed by good prison leaders as a form of constructive feedback rather than a negative process.

In many cases, large hierarchically and bureaucratically structured government organizations make it difficult for individuals to come forward to report wrongdoings or bad decisions made by one of their own. Often individuals fear reprisals from colleagues and senior officers if they are seen to be a “whistleblower”. Silence about wrongdoings such as corruption undermines accountability. Therefore, one of the challenges faced by managers is how to establish a safe environment within which sensitive information can be reported through proper channels and be dealt with transparently.

Leaders have to consider how best to address incidents of corruption, incompetence, or unethical behaviour. It is important to have procedures and protocols clearly stated and followed, and to investigate and respond diligently to any incident of corruption or perceived corruption.



Activities and discussion topics

In smaller groups, discuss the following questions:

- Participants can be asked to explain accountability in their own words and with their own examples.
- How are prison leaders in your country held accountable for their actions and decisions?
- What are the obstacles to accountability within your institution and within your whole organization?
- What is the best way to deal with corrupt staff?
- How should work performance be measured among staff in the prison?

- What is the general perception among the public, offenders' families and offenders about the presence of corruption in the prison system?

As a large group, do the following:

- Identify and defining main functions within your institution and how they are interrelated. Draw a map of these functions on a chart of board and explaining the various relationships between them may help everyone understand the importance of collaboration and effective interactions. Discuss better or alternative ways of defining those functions which would make the overall workings of the institution work more effectively.
- Take an example of a strategic plan that has already been developed and discuss how that plan can be implemented. Alternatively, if a strategic plan does not exist, attempt to draft one which is in line with the goals of your prison system.



Review

The main points to be reviewed will be:

1. Effective management involves the simultaneous and cooperative performance of multiple functions working towards organizational goals.
2. The organization of a prison or a prison service should be based on the articulation of the various functions to be performed within the organization and an understanding of how these functions are interrelated and must interact with each other.
3. Effective management of a prison requires the development and implementation of an effective organizational structure, supported by effective delegation of authority and responsibilities, the development of capacity to perform these functions effectively, and a system for monitoring performance and holding managers accountable.
4. Information management systems are crucial to effective management of a prison and ensuring that it achieves its strategic objectives.
5. Effective management of human, material and financial resources is entirely dependent on effective planning, based on good information, and a clear understanding of the objectives to be accomplished.
6. Accountability means taking responsibility for one's actions and decisions. It also involves trusting your staff and colleagues to work together and not against each other.
7. Effective organizations are those that have a well-established system of accountability and clear guidelines on what is expected of everyone within the organization.
8. Leaders have to be very clear about their own ethics and values and gain the trust of their staff by standing by those values. Not only do leaders have to talk about ethics and values but they must act accordingly as they are being watched constantly by their staff and colleagues. Good leaders have to be seen to be consistently ethical and fair.

6. Management of human and financial resources

Introduction

This chapter focuses on how prison leaders can achieve their goals and objectives by managing human and financial resources efficiently and responsibly. Leaders not only need to secure adequate human and financial resources, but they also need to use them efficiently according to the institution's goals and priorities. Whether at the prison service level or at the level of each prison, there needs to be both a human resource management and a financial resource management function, both supported by competent, well organized, and well staffed administrative units. These two functions are in many ways interrelated. One cannot look at human resource allocation without also looking at financial resources and, therefore, the two administrative units must work very closely together. It is usually advisable to locate both units within close proximity to each other so that staff from the respective units can meet in person as often as required. Personal contact in any organization is important as it helps to facilitate communication and understanding.

To manage human resources efficiently and responsibly, prison leaders must pay attention to: recruitment, job definition and description, training and development of personnel, training for specialized functions, development, retention, promotion, mechanisms for resolution of grievances, and remuneration. These various aspects will be discussed in more details during the present lesson.



Learning objectives

- To examine the importance of planning, goal setting, and alignment of human and financial resources with institutional goals and priorities.
- To examine some of the strategies prison leaders can use in order to mobilize and secure the human and financial resources for the effective management of their institution.

- To review the various aspects of human resource management within a prison setting, including staff recruitment and selection, training, professional development, conditions of service, supervision, performance reviews, retention, promotion, and dealing with grievances and conflicts.
- To review the various aspects of financial resource management, within a prison service, to which prison leaders must pay attention.
- To examine some of the special human and financial resources management issues that may occur in a post-conflict situation.

International standards and norms

A prison leader's ability to meet the basic needs of prisoners, to ensure public safety and to implement international standards within a prison or a prison service depends to a large extent on his or her ability to mobilize and properly manage the necessary human and financial resources. Every decision concerning human and financial resources made by prison leaders ultimately has an impact on the prisoners as well as staff. All decisions with financial or human resources implications ought to be aligned with the priorities dictated by the responsibility of prison leaders for the welfare and safety of prisoners and staff, the security of the institution and public safety objectives.

In making decisions about how to use limited funds available, prison leaders must often make difficult decisions. In all instances, the basic needs and safety of people should take priority. Among the many needs that might be calling for attention, such as the need for a new roof, uniforms for the guards, repairing of a sewage system, food for inmates, investment in tools for prison industries, a choice should be made on the basis of what is the most urgent of needs. Of course at times everything will be equally urgent and important, and in these conditions a clear plan of what needs to be done and in what order is still needed.

There are some relevant standards relating to the selection and the qualification of prison personnel and prison managers. The relevant Standard Minimum Rules (SMRs) are quoted in the box below.

Prison personnel

The Standard Minimum Rules for the Treatment of Prisoners offer the following guidance concerning prison personnel:

46. (1) The prison administration, shall provide for the careful selection of every grade of the personnel, since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of the institutions depends.

(2) The prison administration shall constantly seek to awaken and maintain in the minds both of the personnel and of the public the conviction that this work is a social service of great importance, and to this end all appropriate means of informing the public should be used.

(3) To secure the foregoing ends, personnel shall be appointed on a fulltime basis as professional prison officers and have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness. Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of the work.

47. (1) The personnel shall possess an adequate standard of education and intelligence.
- (2) Before entering on duty, the personnel shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests.
- (3) After entering on duty and during their career, the personnel shall maintain and improve their knowledge and professional capacity by attending courses of in-service training to be organized at suitable intervals.
48. All members of the personnel shall at all times so conduct themselves and perform their duties as to influence the prisoners for good by their examples and to command their respect.
49. (1) So far as possible, the personnel shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers and trade instructors.
- (2) The services of social workers, teachers and trade instructors shall be secured on a permanent basis, without thereby excluding part-time or voluntary workers.
50. (1) The director of an institution should be adequately qualified for his task by character, administrative ability, suitable training and experience.
- (2) He shall devote his entire time to his official duties and shall not be appointed on a part-time basis.
- (3) He shall reside on the premises of the institution or in its immediate vicinity.
- (4) When two or more institutions are under the authority of one director, he shall visit each of them at frequent intervals. A responsible resident official shall be in charge of each of these institutions.
51. (1) The director, his deputy, and the majority of the other personnel of the institution shall be able to speak the language of the greatest number of prisoners, or a language understood by the greatest number of them.
- (2) Whenever necessary, the services of an interpreter shall be used.
52. (1) In institutions which are large enough to require the services of one or more full-time medical officers, at least one of them shall reside on the premises of the institution or in its immediate vicinity.
- (2) In other institutions the medical officer shall visit daily and shall reside near enough to be able to attend without delay in cases of urgency.

53. (1) 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.
- (2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.
- (3) 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.

Issues and challenges

The personnel of a prison service comprises the total number of individuals holding positions within that service. Personnel, therefore, has an individual and an organizational dimension. On the one hand, a prison (or prison service) consists of individual employees. On the other hand, the personnel of a prison (or prison service) is defined by an organizational structure. The qualities of the personnel fall into two basic categories, capacity and integrity. Capacity refers to the qualities that enable personnel to fulfil the technical tasks of the institution's mandate. Integrity relates to the qualities that enable it to fulfil this mandate in accordance with fundamental human rights, professional and rule-of-law standards.

Human resources and financial decisions are among the most consequential decisions made by prison managers. Making the right choice is often a challenge for prison leaders. Good decisions are usually those that are made on the basis of good and relevant information. Moreover leaders must be able to explain and justify their decisions. Human resource management and financial resource allocation and budgeting are all about making good decisions. Making good decisions about human and financial resources ensures the smooth running of the prison and it provides prison managers with the means to build the capacity of their prison and to affect the necessary reforms.

Making sound decisions depends in part on whether the relevant information is available. Implementing these choices is only possible if there are workable systems and procedures in place in the institution. This includes approval processes and clear and understood instructions on who needs to have what kind of information, who has decision making authority, and who is responsible for various functions within the institution.

It is always important to encourage consultation with those who are concerned. Committees can be useful and can encourage broader participation in decision making and increase ownership over the decisions that are made. There is always a risk that consultations and committee based decision making may create unnecessary delays. However, with clear mandates, good leadership and an effective process, committees can be very productive and avoid some of their pitfalls.

International standards can help leaders make principled and value-based decisions. Good leaders are guided by their values and base their decisions on facts. They can be decisive without being authoritarian. They take care to explain and communicate their decisions. They rely on wide consultation without allowing the consultation process to prevent timely and effective decision making.

The following list provides a brief overview of the main elements of the human resources management function within a prison (or a prison service).

- *Recruitment:* Personnel hiring should be based on the knowledge, skills, and abilities of applicants in line with requirements of the job/function. Selection should be done in a way that removes any chance of discrimination based on sex, age, race, religion, marital status or other criteria. Hiring should be a gradual system of application, interview, and testing to ensure the best individual receives the position. Within the prison system it would be recommended to implement testing for situational judgement and personal ethics. In the case of a post-conflict situation, a “vetting process” may be required to ensure a proper screening of new recruits. The recruitment of prison staff in a post-conflict situation or in a situation where staffs are recruited amongst demobilized soldiers and officers requires special attention.
- *Job specification and description:* The various positions within the organization should be defined clearly. Some of them can of course be defined generically. In developing a position, whether support staff, prison officer, or management, it is important to have a clear job description that is communicated throughout the hiring/appointment/promotion process. This promotes a clear understanding of requirements and responsibilities, as well as determines accountability and order of authority.
- *Training and development of personnel:* It is necessary to put in place a comprehensive training and development system for all employees to develop their individual skills and competencies and to instruct individuals about the prison system, standards and expectations, codes of conduct, and reporting methods. A skills-based and competency-based system is often the most effective approach to staff development. The training and professional development can be offered internally or rely on external resources. Basic training must be offered to new recruits and followed up with refresher courses. Human resources training should be ongoing and take into account the need to re-train personnel when new legislation, policies, procedures and process are being implemented which may affect the performance of their own responsibilities. The personnel training function must be well defined within the prison and the whole prison service. It should be supported by dedicated personnel with specific skills as trainers and educators. Training resources and manuals should be developed within the organization and kept up-to-date. Most prison services find it useful to develop their own training facilities and develop a centralized staff college/academy for the ongoing training of their professional staff. The training of prison managers and junior leaders is especially important for succession planning, and leadership training should

be made available to all junior managers. Ongoing training can be supported by encouraging more experienced managers and professionals to coach and mentor more junior personnel. Prison services from different countries can also choose to cooperate with each other in developing training expertise and resources, exchanging trainers, encouraging study tours and other joint initiatives.

- *Training for specialized functions:* It is important that individuals are trained in specialized functions to increase job satisfaction, promote clear expectations, and develop competencies and special expertise. Specializations should be aligned with the specialization of certain functions within the organization.
- *Retention:* The best way to retain an employee is through enrichment and empowerment. If an employee is challenged and satisfied within their role, there is a greater likelihood they will apply themselves and work towards the organizational goals. It is recommended to offer competitive wages, autonomy, sufficient training and development, and advancement opportunities.
- *Promotion and other rewards:* It is important to implement a system of advancement to encourage employee development and provide a career in the service. It is recommended that individuals receive these positions based on merit, past performance, experience and competencies, as well as on the basis of the individuals' personal goals, aspirations, interest. The promotion system should be a fair and transparent one and it should be devoid of favouritism or even the appearance of favouritism. Offering a fair prospect of mobility and advancement within the prisons system is a good way to retain some of the best human resources elements in that system. Reward employees for good work. Managers should be especially careful about the reward systems (including the promotion system) that they set in place and how it is perceived by all staffs.
- *Mechanisms for resolution of grievances:* Any conflict that arises should be dealt with in a timely and fair manner and in a way which protects personal privacy and support whenever possible and appropriate some informal resolution of the conflict in a mutually satisfactory way for all parties involved. Procedures and process for handling grievances should be formalized and communicated to all staff. In a prison, fair and transparent procedures are also required in order to deal with grievances involving both staff and inmates.
- *Remuneration:* Compensation should be based on local standards and market factors and be commensurate with the difficulty of the function to be performed, the level of responsibility assigned to the position and the experience and skills of the individuals. Merit-based increments in the salary levels are a good way to motivate employees and reward good performance. Salaries must be paid regularly and on time. Merit-based increases in pay should be based on an impartial assessment of employees' performance and should never be perceived as the result of any form of favouritism. Accounting for the remuneration paid is particularly important. Individual or collective grievances about remuneration or other financial benefits for employees should be addressed fairly and resolved quickly.

- *Personnel policies:* To ensure that good human resources management practices are consistently implemented throughout the prison and the prison service, it is usually advisable to consolidate all personnel management policies into one document that can be readily accessed by all concerned and used for training practices.

The main aspects of financial resource management to which prison managers must pay close attention include: sound accounting practices, financial information management systems, procurement, stores management and inventory management, budgeting, auditing, integrity of financial management system, and prevention of corrupt practices. The following list offers a brief introduction to best practices. It is recommended that additional information on financial methods be reviewed and consulted while developing and formalizing organizational policy.

- *Reliable accounting practices:* A high level of integrity can be inferred from businesses accounting practices and financial records. The accounting function needs to be clearly defined and be placed under competent leadership within the institution (or the prison service). Accounting methods and categories should be standardized throughout the prison service and aligned with accounting standards and methods throughout the government. A system of records should be produced in accordance with proper standards. The integrity of these records should be protected and they should be kept in a safe place. Proper documentation of all financial transactions and their authorization must be produced and kept safely.
- *Safe-keeping of funds and banking:* Banking transactions and any cash transactions should be transparent and well documented. Regular verification and audit of these transactions should be completed.
- *Accountability for expenditure:* All expenditures should be authorized, and the authority to authorize spending (by type of level of expenditure) should be established clearly, well documented, and kept up-to-date. All expended funds should be traceable. It is important to have a system of checks and balances that require approval for large spending to minimize the opportunity for corruption.
- *Information management:* It is important to have a thorough process of monitoring financial resources and of tracking all assets, liabilities, income and expenditures. This will efficiently help determine where funds are going, what funds are coming in, and what resources will be needed in the future. An effective system for financial reporting in a timely and effective manner should be in place. Financial information systems can of course also be of great use in financial planning and budgeting.
- *Budgeting:* Budgeting allows managers to anticipate and plan for how they intend to gain and use financial resources for a given period of time: one year (annual budget); five years (long-term budget). It is based on reasonable and careful assumptions about projected income and expenditures and a meticulous forecasting of future income and costs. The budgeting process should obviously be aligned with other planning processes, such as the

Government's own overall budgeting process, the prison service's long-term capital investments and expenses planning and its capacity building plans, the prison service's strategic plan, and a number of planning exercises within each prison. Budgeting should be conducted by a committee to ensure all needs are addressed in a sustainable manner for as long as the budget period. All forecasts for funding needs over time should be conducted, reviewed and explained by the financial resource management team to the budgeting committee so as to minimize cost overruns and ensure all basic needs are met.

- *Auditing and the integrity of financial management system:* It is important to arrange for the conduct of regular and independent audits of the accounting system and accounting data, existing inventories, and assets. A financial audit is an official examination and verification of accounts and records so they help ensure that the financial data is accurate, that the financial accounting system is improved over time, and that the risk of financial mismanagement and corruption is minimized.

The organizational structure developed within the prison system will define the division of labour, as well as systems of communication, work flow and authority. This in turn will affect how activities are coordinated. As organizations grow and develop there is usually a trend for greater decentralization and departmentalization which divides functions based on specialization. Although human and financial resources management must be incorporated throughout all levels of the organization, limited autonomy and self direction can still be achieved in the pursuit of organizational goals.

A key factor in developing fairly autonomous departments is the establishment of efficient system of communication and reporting. Through an effective management information system, prison leaders will be able to establish reporting systems to understand what is going on and the direction of the organization.

Human resources management also entails creating a work environment that empowers staff to fulfil their responsibilities, allows them to take initiative, to work cooperatively, and helps them do their jobs to the best of their abilities. Their work and contribution should be valued, their success acknowledged and rewarded, and they should have an opportunity to develop professionally, to acquire new skills and to pursue a career within the service. A prison director must be attentive to staff morale and to potential problems arising from staff expectations, dissatisfaction or grievances.

Training courses may not always be available when they are required and often staff are expected to learn on the job with very little training. International organizations and bilateral prison-to-prison training may be of assistance. The challenge is the capacity of staff to absorb the training and how relevant the training is to the local situation.

Unfortunately, however, the social status of prison staff is very low in many countries. Insufficient attention is given to their proper recruitment and training. A large majority will not have sought a career in the prison service in particular, e.g. they might be former military personnel, people who have been unable to find other employment, etc. Their salaries are often inadequate, which contributes to dissatisfaction and corrupt practices. If the prison service is within the Ministry of Interior, however, and have

military status, then they might have a range of additional privileges, as well as comparatively higher salaries.

In cases where human and financial resources are simply inadequate, it becomes a priority to find alternative ways to resolve problems such as collaborating with community groups and organizations that can assist. Self-reliance may not be possible to achieve in running a prison but total reliance on external support can lead only to frustration. It is important to ensure that budget priorities reflect the mission and goals of the institution—this alignment is also important because it has some impact on leadership and accountability.

Maintaining motivation among staff is sometimes an issue. Providing leadership when staff is not motivated can be very difficult. Effective supervision of staff is necessary. Using measures to monitor performance can help ensure that supervision is consistent and uniform and there is less of a chance that staff can be dismissed or transferred for the wrong reasons. Hiring someone for the right reason and on the right basis is critical to the kind of organization the prison becomes. Interviews should be conducted in order to understand the strengths and the weaknesses of the individual, their motivation for wishing to join and what their core values are.

Often there is a need to take action to build the capacity of female prison staff. To achieve equality of rights between men and women, a gender mainstreaming policy must be adopted to ensure the participation of women in all levels of policy and decision-making. In that regard, a prison personnel reform process may benefit from the early establishment of a “gender working group” within the prison service with a clear mandate to advance gender mainstreaming within the service and within each institution.

In post-conflict situations, prison leaders often face special challenges including the need, sometimes, to vet existing personnel through a fair and effective process. They may need to engage in complex, time-consuming and resource-intensive prison personnel reform process. This can be particularly difficult when they have to deal with large numbers of untrained employees. Prison leaders may have to deal with demobilized personnel and may have to engage in a process of “demilitarization” of the staff. They may need to help military leaders transform themselves into competent civilian prison leaders. The success or failure of a prison personnel reform process significantly depends on a thorough evaluation of operational requirements and the provision of adequate time and resources. Registering employees, screening them, assessing their competence and, in particular, investigating their background are all complex tasks that take time and require specialized skills.



Activities and discussion topics

In smaller groups or in a large group session, discuss the following questions:

- How do you plan for staffing, training, and other resources in order to implement your goals?

- What alternative measures have you taken to help to add to your resources?
- How do you reallocate human and financial resources from one area to another?
- What is the number of staff positions in your prison? What is the actual number of staff in those positions?
- Is there a standard and proper recruitment procedure for prison staff?
- Are there minimum qualifications for positions?
- Is there transparency in the hiring process?
- Does the prison service have an employee manual that explains policies, procedures, and responsibilities?
- How are employees evaluated? Promoted? Disciplined? Demoted? Terminated? Are there procedures for each?
- How does the remuneration of staff compare to the local cost and standards of living?
- What training do prison staffs receive? What subjects does the curriculum include and how long does the training take? Does the training include a human rights component?
- What kinds of difficulties do you experience in relation to regional or national headquarters? How do you think those difficulties could be better addressed?
- What do you mean by “checks and balances” in financial management? Give examples.



Review

1. It is important to plan and set goals for the organization and ensure that the human and financial resources are carefully aligned with these goals.
2. The mobilization of human and financial resources is key to achieving the organization's goals and objectives.
3. Close attention must be paid to how staffs are recruited, trained, supervised and evaluated. Attention must also be given to career advancement and conditions of service in order to retain staff and provide incentives.
4. The function of human resource management must be established within each institution and be aligned with that same function at the level of the prison service as a whole.
5. Good communication with regional or national headquarters is important in terms of a leader's ability to secure the necessary human and financial resources to properly manage an institution and to proceed with the necessary reforms.
6. In order to be able to effectively demonstrate these needs for resources, a prison director must also have produced some kind of resource needs assessment as well as a kind of plan setting out the intended use of those resources.

7. The function of financial management must be established within each prison (and the prison service as a whole) and supported by proper policies, processes and systems.
8. It is essential to have regular financial reports made available to various levels of management within the prison system so as to inform decisions, allow for adjustments, and help anticipate financial difficulties.
9. A system of financial monitoring and accounting must be implemented to support financial accountability and ensure the best use of available resources, in line with the goals and objectives of the prison service and the prison. Implemented with a series of checks and balances this system should be transparent and made available to internal and external stakeholders.
10. Independent financial auditors should be retained annually to review financial reports to ensure financial data accuracy and improvements to financial system.

7. Management of physical facilities

Introduction

This chapter focuses on managing physical facilities and space within the prison and ensuring that they are used efficiently and effectively in order to achieve correctional objectives and comply with applicable international standards and norms. These norms demand that prisoners be provided with adequate living space, fresh air, natural light, and a generally healthy environment during their imprisonment and that certain categories of prisoners should be detained in separate rooms or buildings from others. Health and hygiene will be covered in a later chapter but it should be mentioned here that good sanitation facilities such as toilets and washing areas are essential in prisons to allow the prisoners to keep themselves clean and also to avoid any outbreaks of illness within the prison.



Learning objectives

The objectives of this module are:

- To examine how best to use the physical facilities or space within prisons.
- To examine how the use of space impacts on accommodation of prisoners and the potential detrimental effects of prison overcrowding.
- To examine how the use of space impacts on the separation of certain vulnerable prisoners, such as youth, women, disabled prisoners, mentally ill prisoners, sick prisoners, pre-trial detainees.
- To discuss the ways in which physical facilities can be better used.
- To consider some issues relating to the planning of a new prison facility.

International standards and norms

Many international standards and norms are concerned with the conditions of the prison and the welfare of the prisoner. They are quite clear regarding the accommodation of prisoners as well as the need to separate certain groups from others. See, for

example, Rules 8 and 10 of the Standard Minimum Rules for the Treatment of Offenders in the box below.

Separation of Categories of Prisoners

8. The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,

- (a) 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;
- (b) Untried prisoners shall be kept separate from convicted prisoners;
- (c) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence;
- (d) Young prisoners shall be kept separate from adults.

Accommodation

9. (1) Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

(2) Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the institution.

10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

11. In all places where prisoners are required to live or work,

(a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;

(b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

12. The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

13. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

14. All pans of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

Issues and challenges

Overcrowding is very often an issue in prisons. That occurs when the size of the prison population exceeds its capacity. The problem of overcrowding is a serious one as it affects the living conditions of inmates and often violates many of their basic rights. The problem often leads to the mixing of prisoners across categories (pre-trial detainees, convicts, juveniles, men and women). Overcrowded conditions clearly have an impact on the security and safety of inmates and on staff safety. Overcrowding contributes to the deterioration of the physical conditions of prison facilities. It increases the risk of transmission of communicable diseases. It results in poor supervision of inmates and poor safety conditions which significantly increases the risks of violence and of gang activity.

The solution to overcrowding may sometimes involve building new prisons in order to increase the overall capacity of the prison system. One should be careful however not to jump too quickly to that conclusion. Many countries have been able to address the problem of prison overcrowding by reducing the size of the prison population by limiting the number of accused persons held in custody while awaiting trial, promoting expeditious trials, promoting community-based sentences and alternatives to incarceration, and developing early or conditional release programmes. Most of these solutions compare favourably to various types of prisoner amnesty programmes that are designed to release inmates simply to reduce the size of the prison population.

Good utilization of prison facilities cannot be dissociated from good offender population management, including the use of a good offender classification system. The latter will be discussed in more details in chapter 11. Furthermore, timely and accurate information about the offender population and fluctuation in the size and characteristics of that population is critical to the good management of prison facilities and good long-term planning of new facilities.

The very nature of a prison facility design is to keep the inmates from escaping. They are also designed to allow prison guards the maximum amount of visual range possible from the guard posts, to allow any inmate movement to be observed and to allow for prison guards to be able to secure certain parts of the prison separately from others. The ability to segregate certain prisoners is important in managing incidents such as riots.

Guard posts are usually located and designed to give them the best view of what is happening in that part of the prison. There are certain architectural designs which are favoured over others, e.g. central command posts with 360 degree visibility to ensure greater security with the least number of watch guards; the “H” block design also to ensure greater security by limiting the number of exits and command posts; designs which include secure recreational areas for prisoners.

Prisons are built differently in different parts of the world depending on a number of factors including the wealth of the country, the circumstances of the prisoners, the intended security level offered by the prison, the climate, geography, and even the country's history. One of the challenges that prison leaders very often face is that the prisons they manage are old and obsolete. They were built decades ago and are therefore based on outdated designs. Building new facilities requires a lot of funds and many countries

simply cannot afford new prisons. When there is an opportunity to build a new facility, its planning should be taken very seriously and involve those who will be responsible for their management. Importing designs from other countries without any adaptation to fit local circumstances generally leads to poor results.

Dangerous incidents within prisons can happen very quickly putting prison guards and inmates at risk. It is therefore important for prison guards to be able to position themselves inside secure enclosures to protect themselves from harmful inmates. Physical distance or physical barriers are important aspects of prison design for staff protection but consideration should always be given to the possibility of it being used against prison guards as well. Barriers, while providing physical protection, are unlikely to contribute to trust between guards and inmates. In some countries the use of barriers, especially within minimum and medium security prisons, is being reduced in order to create a more trusting relationship between guards and inmates. This so called “dynamic” security will be further explored in a later chapter.

Cell and dormitory overcrowding is common in prisons all over the world. The effects of this include rising tensions and friction among prisoners and guards. In most cases, prison authorities do not have much choice in the prison design but sometimes an imaginative use of space can alleviate some of the problems. Partitions may allow different spaces to be used for different purposes. Allowing inmates to sleep at different times may also be helpful. Boredom within prisons is a big contributor to tension and unhappiness in prisons, so finding ways to keep inmates meaningfully occupied will go a long way to alleviating problems arising from inadequate space.

There are various kinds of issues associated with the prison layout and conditions for various categories of vulnerable prisoners. In some cases, such as prisoners on death row, it may be issues relating to security and the isolation of prisoners. In the case of infants and children of prisoners, it may be concerning the ability to allow them to be with their mother. In the case of elderly prisoners, it may be a matter of the difficulties in accessing a building’s upper level due to stairs, or accessing sanitary facilities. In the case of physically disabled offenders, some of the physical features of the prison may hinder these inmates from satisfying their basic needs. All of these issues should be understood and explored by prison managers in developing new facilities and planning their use. Some physical changes to existing facilities may be necessary. Prison managers should consider the arguments in favour of and against the creation of special units to accommodate various vulnerable groups of inmates to ensure their safety and well-being.



Activities and discussion topics

Consider the plans (layouts/blueprints) of a model prison and compare them to some of the existing prisons. Identify important differences. Comment on suitability of existing plan to local circumstances.

Discuss in small groups the following questions:

- What is the biggest problem concerning space/physical facilities in your prison? What measures have you taken to alleviate that problem?
- In your view, what hardships are created for inmates by the poor conditions of the physical facilities in your institution? What hardships are created for staff?
- How can the physical facilities available in your institution be used somewhat differently to improve prison conditions for prisoners and staff?
- What are the elements that should be included in the design of a model institution?
- What would be the first thing you would like to change in the design of the prison which you manage if you had the resources?
- In your view, what accommodations may be necessary in a prison's physical facilities to ensure the safety and well-being of various groups of vulnerable prisoners (infant, women, foreign prisoners, prisoners on death row, elderly prisoners, young offenders, prisoners suffering from a mental illness)?
- What are the kinds of things you have tried to alleviate the problem of overcrowding in your prison? (assuming overcrowding exists).
- Is the length of time prisoners spend in prison while awaiting trial or disposition an issue in your prison system? If so, what measures could alleviate this problem?



Review

1. A big part of prison management is to ensure that physical space is used effectively and efficiently. A good prison leader should always be thinking about how to use the space in the institution in a more efficient way so as to create acceptable living conditions for inmates and working/living conditions for staff.

The way prison space and physical facilities are used greatly affects factors such as public safety, prisoners' living conditions, prison guard security and the ability to maintain control and order within the prison.
3. International standards relating to accommodation of inmates requires them to have adequate living space, a place to sleep, and a place to clean themselves. They also require the separation of women, children, those on remand, and the mentally ill from the adult male population.
4. With increasing numbers of incarcerated individuals in many parts of the world, space within prisons is often insufficient and prison authorities are required to find new ways to cope with such challenges. If buildings are old and there is simply not enough space, then building new prisons is an obviously good way of dealing with overcrowding. However, there are other ways to reduce overcrowding such as reducing the number of prisoners on remand and releasing those who simply do not

belong in prison such as the mentally ill, who in some countries are kept in prisons but who have not committed any crime. The government should find alternatives to prison for the mentally ill as well as for juveniles.

5. A prison service should have a long-term plan for the development and maintenance of its physical facilities and for the expansion, as necessary, to meet future space demands.
6. Physical facilities within a prison must account for the special needs and circumstances of special groups of prisoners those who are particularly vulnerable.



8. Meeting the basic needs of prisoners

Introduction

This chapter covers some important international standards and norms relating to the basic needs of prisoners. It will help participants consider whether these standards are complied with within their respective institution and, if not, the reasons why. The participants will then explore practical ways to ensure that the basic needs of prisoners under their responsibility are effectively met.

How a country treats its offenders is a reflection of its overall view and approach to human rights, particularly when it is clear that it can afford to treat its prisoners better than it does. In most countries, there is no excuse for the failure of prison services to provide the basic necessities for prisoners. Even in war-torn countries in which the majority of the population are very poor and are themselves in dire need of basic food, shelter, clothing, and medical assistance, prisoners should not be forgotten or mistreated.

Living conditions in a prison are among the chief factors determining a prisoner's sense of self-esteem and dignity, and ultimately the prisoner's chance of successfully reintegrating society as a law-abiding citizen. The quality of accommodation, sleeping arrangements, what and where prisoners eat, what they are allowed to wear, whether they have ready access to sanitary facilities all have a tremendous influence on a prisoner's human dignity and feelings of self-worth. Even where physical conditions are adequate, restrictive practices, such as having to ask a guard for access to the toilet and then having to wait a long time, may deepen prisoners' sense of inadequacy and worthlessness. If a person is not treated like a human being, then that person is not likely to feel like a human being.

In general, international standards and norms talk about adequate living conditions but do not specify the exact size of space that is sufficient for each prisoner. That is left to prison authorities to determine but some prisons are so overcrowded that prisoners die of suffocation or are unable to lie down to sleep all at the same time. Prison managers should find ways to address prison overcrowding as a priority.

In some countries, most prisoners spend most of their day in their cells with limited access to the outdoors. In warmer climates, prisoners tend to spend most of their day

outside in a fenced in area or under whatever shade they can find. Often if the fences are inadequate prisoners are locked up or shackled. In some countries prisoners are made to work most of the day, whilst in others prisoners are bored with nothing to do. Ideally, prisoners should have time to rest, work, learn a skill and sleep. Any accommodation should also have adequate ventilation and light.

In many countries medical services are often not available for prisoners. In many prisons communicable diseases such as HIV/AIDS and hepatitis are a problem and because prisons are densely populated, such illnesses can spread easily to both inmates, staff and visiting family members. It is therefore important that medical services be extended to prisoners and that prison authorities make such services a priority.



Learning objectives

The main objectives of this module are to:

- Review international standards relating to the basic needs of offenders: adequate accommodation, food and water, clothing and bedding, personal hygiene, medical services, and leisure and exercise.
- Reflect on how to implement these standards in the context of prisons in the country.
- Review how prisons in the country comply with international standards.
- Look at specific gender aspects of the basic needs.
- To examine the impact of HIV/AIDS on prisons in the country.
- To discuss the importance of the right to religious beliefs for prisoners.

International standards and norms

Standard Minimum Rules for the Treatment of Prisoners

Accommodation

9. (1) Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.
 - (2) Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the institution.
10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

11. In all places where prisoners are required to live or work,
 - (a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;
 - (b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.
12. The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.
13. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.
14. All pans of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

Personal hygiene

15. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.
16. In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.

Clothing and bedding

17. (1) Every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating.
 - (2) All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.
 - (3) In exceptional circumstances, whenever a prisoner is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other inconspicuous clothing.
18. If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use.
19. Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

Food

20. (1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.
 - (2) Drinking water shall be available to every prisoner whenever he needs it.

Exercise and sport

21. (1) Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.
- (2) Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end space, installations and equipment should be provided.

Medical services

22. (1) 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.
- (2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.
- (3) The services of a qualified dental officer shall be available to every prisoner.
23. (1) 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 practicable 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.
- (2) Where 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.
24. The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.
25. (1) The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.
- (2) The medical officer shall report to the director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.
26. (1) The medical officer shall regularly inspect and advise the director upon:
- (a) The quantity, quality, preparation and service of food;
 - (b) The hygiene and cleanliness of the institution and the prisoners;
 - (c) The sanitation, heating, lighting and ventilation of the institution;
 - (d) The suitability and cleanliness of the prisoners' clothing and bedding;

- (e) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.
- (2) The director shall take into consideration the reports and advice that the medical officer submits according to rules 25 (2) and 26 and, in case he concurs with the recommendations made, shall take immediate steps to give effect to those recommendations; if they are not within his competence or if he does not concur with them, he shall immediately submit his own report and the advice of the medical officer to higher authority.

Issues and challenges

When an offender is sent to prison by a judicial authority, the international standards clearly state that the punishment that has been imposed should be only the loss of liberty. Imprisonment does not mean that prisoners can be or should be exposed to ill treatment or abuse or be deprived of food, a place to sleep or adequate clothes to wear.

One of the main challenges to providing the basic needs of prisoners is the lack of financial resources, and in very poor countries it is particularly difficult to meet those needs because the rest of the population is also very poor and the government would be expected to give priority to the non-prison population. Public opinion is often very strong in persuading governments not to treat prisoners as well as the rest of the population. However, the job of prison managers is to ensure that prisoners are fed, clothed and sheltered. International standards and norms call for the meeting of the basic needs of prisoners; they do not suggest that prisoners should be better treated than the non-prisoner population. Prison managers should engage with the public to explain that prisoners deserve fair or human treatment and that degrading treatment or torture is not part of the punishment for the crime committed.

Prisons in many countries are overcrowded and small cells and dormitories are sometimes crammed with prisoners; there are insufficient beds and bedding and many prisoners have to sleep on the floor with very little comfort. Overcrowding in prisons have all kinds of negative effects including the spread of diseases, emotional and psychological concerns as well as concerns about the transmittal of serious diseases such as HIV/AIDS and hepatitis, tuberculosis, etc. It also impacts on the community outside the prisons as prisoners may spread the diseases to their visitors or to the community when they are eventually released. The impact is also felt on staff members who are exposed to offenders with diseases.

Having a kind of sanitation audit is one way that leaders can prevent the spread of disease. Regular checks on the cleanliness of the kitchen, toilets, sleeping areas and eating areas will help to maintain a certain standard of hygiene. A clear roster of duties for staff is always a useful way to rotate cleaning duties. Maintaining a distance between the toilet area and the food preparation area is another way to prevent the spread of illnesses; making sure that human waste from the toilet area does not somehow find its way to the water supply; ensuring that the same individuals who prepare food are not the same individuals who clean the toilets is yet another way. It is usually necessary to

offer training to both staff and inmates on how to prepare, conserve and serve food safely, on basic hygienic practices, and on how to clean and disinfect some critical areas and surfaces within the institution.

Ensuring a sufficient and steady food supply for the prison population is often a challenge. There are problems of procurement, stores management, food distribution, corruption and pilferage that usually require careful attention. Many institutions are able to alleviate potential food shortages by relying on prison industry and, in particular, farming to ensure a steady food supply for prisoners (and staff). Prison farms can be successfully established by prison managers and they may be able to barter some of the produces they obtain with other goods and services from the community. There are several good examples available of successfully prison farming practices.

Programmes and training must be in place for the prevention of communicable and contagious diseases. Prisoners are a most-at-risk population not only for HIV and other sexually transmitted infections, but also for tuberculosis. In prisons, overcrowding, lack of ventilation and poor prevention practices dramatically increase the risks of tuberculosis transmission. Tuberculosis is also one of the most common opportunistic infection among people living with HIV. The combination of the high prevalence of both tuberculosis and HIV in prisons is responsible for a high mortality rate amongst prisoners.

Prison health services are usually ill-equipped, understaffed, under-resourced and often isolated from other national health services. Prison leaders encounter very difficult challenges in attempting to ensure that inmates under their responsibility responsive even the most basic healthcare services. HIV/AIDS and other sexually transmitted diseases are of particular concern in prisons. Most prisoners are sexually active males between the ages of 19 and 35, representing a segment of the population that is at high risk of HIV infection prior to entering prison, especially in counties with generalized epidemics. Common high-risk behaviour in the prison environment includes unprotected sex, rape, sex bartering and “prison marriages”. In addition, unsafe injecting practices among injecting drug users, blood exchange and the use of non-sterile needles and other cutting instruments for shaving and tattooing are widespread. The lack of testing facilities in prisons often makes it difficult for prison managers to estimate the prevalence of the problem in their own institution. Guidelines on HIV testing policies for prison communities are rarely followed. Prison leaders must nevertheless put in place a number of measures to prevent serious epidemics within their own environment. They should, whenever possible seek the assistance of public health authorities. Worldwide, existing evidence-based policies and interventions to address HIV among prisoners are:

- Condom and lubricant distribution
- Treatment for injecting drug users
- Access to safe drug injecting equipment
- Dissemination of information, education and communication materials
- Access to HIV testing
- Access to antiretroviral (ARV) treatment

There are some basic health care needs that are gender specific. Female prisoners are typically from economically and socially disadvantaged backgrounds and they frequently suffer from a variety of untreated health conditions. Women prisoners represent a high-risk group for sexual and reproductive health diseases, including cancer. In countries where tuberculosis is present, women all have a high risk of tuberculosis infection. Pregnant prisoners rarely receive adequate prenatal, peri-natal and post-natal care in prison. The special dietary requirements of pregnant prisoners are often not addressed. Whenever possible, women should be transferred to civilian hospitals for childbirth. In poor countries or when the prisons are in an isolated area, the delivery of babies may be carried out in prisons, in unhygienic and dangerous conditions, by staff with inadequate medical experience, resulting in health complications for both the mother and the child. Women in prisons in poor countries rarely have sufficient sanitary pads so they use dirty cloths during their menstrual cycle or they are simply left to bleed under a tree so they do not dirty the cells. At times they are not allowed to participate in the preparation of food or join in activities because it is considered a dirty phenomenon. The importance of educating women on personal hygiene and having washable absorbent sanitary pads cannot be emphasized enough.

Prisons are also poorly equipped to meet the basic needs of babies born and kept in prison. Prisons rarely provide a suitable environment for a baby or infant to grow up, yet the separation of women from their children often has a traumatic effect on both the mother and the child. Rule No. 23 of the United Nations Standard Minimum Rules (see page 78) require special accommodation for all necessary pre-natal and post-natal care and treatment and nursery staff for infants when they are not in the care of their mother. In its general comment No, 28, the Human Rights Committee stated that:

“(...) pregnant women who are deprived of their liberty should receive humane treatment and respect for their inherent dignity at all times, and in particular during the birth and while caring for their newborn children”.



Activities and discussion topics

In smaller groups discuss the following questions:

- What are the biggest challenges in order of priority that you encounter in your institution in terms of meeting the minimum standards relating to the basics needs of prisoners?
- What innovative ideas and initiatives have you heard of or have implemented yourself to overcome any of these challenges?
- Does the current system encourage or discourage innovation? What do you think are the reasons for this? What do you think should change if anything? How can innovative ideas be maximized within your prison service?
- What are the main reasons for not being able to meet the basic needs of prisoners in your prison? Resources? Public opinion? Prison administration? Senior officials? Discuss each factor separately.



Review

1. Prisons must have access to ample, clean and safe water as well as a working sanitation system.
2. Prisoners have been deprived of their liberty by a judicial authority but this does not mean they should be deprived of the basic necessities of food, clothing, living space, medical services, and leisure and exercise.
3. Meeting the basic needs of prisoners is important to allow them to survive and to preserve a degree of self-respect, self-esteem and hope. Without these, any hope of rehabilitating offenders is lost. They will not have any hope for the future or any regard for others, and the system will have failed them and society.
4. In poorer countries, the challenge is greater in achieving these standards but prisons can find different ways to find solutions (vegetable and animal farming projects, prison industries where prisoners make certain equipment or furniture and the goods are sold for revenue to buy additional food and clothing for them or be used to build additional facilities for prisoners in the prison).
5. Personal hygiene and sanitary conditions are not only important basic needs of prisoners but also important disease prevention prerequisites. Prison populations across the world report higher than average (compared with non-prison population in the country) HIV/AIDS cases. This is a very urgent and pressing matter and deserves special attention.
6. Special measures must be taken to prevent the spreading of communicable diseases within the prison.
7. Health care services are one of the basic needs of prisoners.
8. There are some gender specific health care needs that must be addressed. Pregnant prisoners and, eventually, their babies have special needs which cannot be ignored. Women need washable reusable sanitary pads for their menstrual cycles and need education in personal hygiene.

9. Vulnerable prisoners

Introduction

Certain groups encounter discriminatory treatment or need special care and attention to avoid potential exploitation by others. This chapter will examine the situation and needs of these especially vulnerable groups of inmates and will consider measures that must be taken by prison managers to deal effectively and compassionately with these vulnerable groups.

In this chapter, participants will focus on six particularly vulnerable categories of prisoner: women prisoners; life and long-term prisoners; mentally ill prisoners; prisoners under a death sentence; elderly prisoners; and foreign prisoners.¹ Children should also be considered as an especially vulnerable group and their situation deserves special attention on the part of prison managers. The needs and situation of children in prison will be considered later, in a separate chapter of this handbook.

We will also refer to the management of vulnerable inmates within the prison population in the chapter on safety and security. Because these groups are vulnerable and can be victimized by other prisoners, they tend to require separate accommodation, special attention and consideration, and different treatment.



Learning objectives

1. To understand why and how certain groups of prisoners are vulnerable and require special attention.
2. To understand the relevant international standards and norms relating to each group.
3. To make the links between good prison management and the safety and security and general situation of vulnerable inmates groups.
4. To learn how to manage these particular groups better by identifying the issues and challenges associated with their situation in prison and identifying policies and measures that may offer protection and assistance to members of these vulnerable groups and recognize their special needs.

¹ Prisoners with HIV/AIDS are covered under chapter 8 “Meeting the Basic Needs of Prisoners”. They can certainly be considered a vulnerable group in many prisons in the world.

International standards and norms

Rule 8 of the Standard Minimum Rules for the Treatment of Prisoners reads in part:

The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,

- (a) 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.

Rule 23 of the Standard Minimum Rules for the Treatment of Prisoners reads:

23. (1) 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 practicable 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.

(2) Where 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.

Rule 53 of the Standard Minimum Rules for the Treatment of Prisoners reads:

53. (1) 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.

(2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.

(3) 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.

Rules 82 and 83 of the Standard Minimum Rules for the Treatment of Prisoners read:

82. (1) 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.

(2) Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management.

(3) During their stay in a prison, such prisoners shall be placed under the special supervision of a medical officer.

(4) 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.

83. 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.

Principle 20 (1) of the UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Healthcare reads:

This Principle applies to persons serving sentences of imprisonment for criminal offences, or who are otherwise detained in the course of criminal proceedings or investigations against them, and who are determined to have a mental illness or who it is believed may have such an illness.

Article 9 of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty reads:

Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering.

Issues and challenges

Women prisoners

There are far fewer women in prison than men throughout the world. They tend to commit different kinds of crime than men; in many countries they are imprisoned as a result of discriminatory laws; they tend to have been sexually or emotionally abused; they tend to have taken the blame for the crime for their husband in order to protect his reputation or income; they tend to have been discriminated against by their own community; and in many cases they have been coerced into committing crimes by male partners e.g. acting as drug “mules”. Prison guards in female prisons require special training on to how to cope with these inmates. They must become aware that many of the women prisoners have been victimized and suffer from various traumas. Of course not all female prisoners fall under this description and may be very hardened criminals, yet the latter tend to a minority among the women found in prisons. Ethnic minority women are also vulnerable and may not be considered by other women as equal so discrimination may exist among women prisoners themselves.

Due to limited prison facilities for women, they are often imprisoned far from home, which may limit the possibilities of visits from their families, sometimes causing severe problems for them and their families. Alternatively, they may be accommodated in an annex of a prison for male prisoners. This may pose an increased risk to their safety. Activities in prison may also be designed to meet the needs of the majority male prison population. Where prisons are overcrowded and limited staff available to supervise prisoners, women may have no or limited access to many facilities. Pregnant women and nursing mothers have particular problems relating to their condition and should not be imprisoned unless exceptional circumstances exist. Women also face particular problems after release, as they experience the stigmatization of imprisonment more acutely than men.

In many prisons, women with babies or young children are permitted to stay together and in some cases they stay in special nursing units. The age at which children are separated from their mothers and taken out of the prison environment differs from country to country, varying from several months to several years. That decision should be made on the basis of what is best for the child. If the child has no where else to go, then it would be preferable to keep the child with the mother. However, remaining too long in the prison will affect the child's development as there is very limited exposure to other children and adults. A child needs all kinds of stimulation in order to learn how to be a normal human being and the prison offers a most abnormal environment.

In many countries, women are sexually abused and humiliated by prison personnel. Such abuse may range from subtle humiliation to rape. The former can include verbal abuse, improper touching during at-down searches, frequent and unnecessary searching and spying on prisoners during showers and in living areas. Rape may take place in the form of sexual services which women prisoners are forced to provide in return for access to goods, food, privileges or to enjoy their most basic human rights. Recognizing the vulnerability of women to sexual abuse, the United Nations Standard Minimum Rules prohibit any involvement of male staff in the supervision of women's prisons. The lack of women prison staff often results in this rule not being applied.

Life and long-term prisoners

The term "life sentence" means different things in different countries. Different countries impose life sentences for a different range of offences.

Those sentenced to a life sentence are likely to have committed terrible crimes and they may or may not be dangerous. Because of their sentence, those prisoners can be more likely to want to escape than others with shorter sentences and therefore are likely to pose a greater threat in terms of escaping. They feel they have nothing to lose. Prison authorities have to find a way to manage those prisoners in such a way as to ensure they do not escape while making sure they are treated humanely. Locking these prisoners up in cells all day or keeping them in chains to prevent them from escaping does not amount to humane treatment and should not be overused.

In some cases, life prisoners can be more at risk of committing suicide because there is no hope of release or because they cannot face such a long time behind bars. Prison guards should be trained to watch for signs of suicidal thinking. When possible, arrangements should be made for life and long-term prisoners to receive counselling and participate in visitation programmes involving community groups. Guards should receive training on how to treat and deal with life or long-term sentenced prisoners because the psychological impact of having such a sentence is very different from someone who is serving a much shorter sentence.

On the other hand, life and long-term prisoners can also have a different approach to their life in prison. Because they are not counting the days, months or years until they are released like other prisoners, they tend to be more resigned and settled in their routines and can be a more stabilizing effect on other prisoners.

Mentally ill prisoners

It is a sad commentary on the use of prisons that many people suffering from mental illness who are found in prison in many countries have never committed or even been accused of having committed a crime. The prison serves, in their case, as a very bad substitute for proper medical care and assistance.

The number of prisoners in need of psychiatric care is rising in many countries. It is too often the case that prison authorities have no means of assessing these individuals or referring them to professional staff for a proper diagnosis. In many cases, prisoners have a co-occurring mental illness and a drug addiction problem. Proper treatment is rarely made available and the individuals' mental health condition is often allowed to deteriorate completely without any offer of assistance or medication.

In fact, offenders who are mentally ill should not be detained in prisons, where they rarely receive adequate treatment for their condition and where their mental health is likely to deteriorate. Prisons are places where people who suffer from a mental illness are likely to be mistreated by staff, ostracized or discriminated against and victimized by other inmates. Instead, the individuals should be given specialized care and treatment in the community or in specialized mental health institutions. Unfortunately, community-based psychiatric institutions and services are often overburdened with patients or in some poor countries they simply do not exist.

Indeed, many prisoners may develop mental and psychiatric conditions as a result of imprisonment itself and being cut off from their families. Mental problems arise and may become chronic in prisons with overcrowding, lack of nutritious food, and boredom. If there is no proper differentiation of prisoners according to risk levels, prisoner subcultures may develop to create dominant hierarchically organized groups. Mentally ill prisoners often become targets of dominant groups. They should therefore be separated from the rest of the population and closely supervised. Measures should be taken to support and watch inmates who may be suicide prone and require special attention.

International standards stress the importance of prisoners' access to psychiatric consultation and counselling. Staff members need to be familiar with and able to recognize the main symptoms of mental illness (e.g. the different kinds of epileptic seizures) and alert prison managers and available medical staff when disturbances occur or when mentally ill offenders become a threat to themselves or others. In some cases, engaging with mentally ill people can help to alleviate any anxiety they may be feeling, and guards should at the very least receive some basic training on how to deal with such prisoners. Suicide prevention strategies must be in place.

The development of comprehensive policies and strategies relating to the management of mentally ill prisoners is essential to ensure the effective treatment and rehabilitation of these prisoners.

Prisoners under sentence of death

International standards and norms strongly suggest the abolition of capital punishment but it still remains a form of punishment in several countries. Prisoners on death row experience prison differently from other inmates. Naturally they are likely to have a

much higher level of anxiety and anguish from the thought of being executed, having to wait while their appeals are being processed, having to leave family and friends, or from the fear of pain during their execution or wondering how and when they will die. At the very least death should be quick and painless.

Handling prisoners on death row is a stressful and difficult job. Prison officers can become quite traumatized and emotionally affected by constant exposure to prisoners on death row. They should rotate duties with others and they should have access to counselling and other support mechanisms.

Elderly prisoners

One consequence of the increase in the length of sentences in some jurisdictions is that prison administrators are having to respond to the needs of growing numbers of elderly prisoners. In some jurisdictions the recent trend towards mandatory life or long sentences has led to a significant increase in prisoners who will become old in prison. This may require the provision of a range of special accommodation to deal with the problems arising from a loss of mobility or the onset of mental deterioration. Attention needs to be given to the different problems, both social and medical, of this group of prisoners. Prison managers should also be aware of the possibility of elder abuse and bullying. There may be a need to create a special unit within the prison to deal with elderly prisoners requiring special care or attention.

Foreign prisoners

Foreign national prisoners suffer from particular problems of isolation and have distinct needs, some of which overlap with those of ethnic and racial minorities also found in prisons. They too are often the subject of various forms of discrimination while in prison. Language difficulties and unfamiliarity with local food, culture and tradition often adds to their feelings of isolation. Being unable to communicate with their family and relatives is often a source of anxiety and despair. There must be systems in place to ensure that the prisoner has access to his country's embassy or consulate and that they are informed of the prisoner's situation and able to make visits and to offer assistance.



Activities and discussion topics

Participants are divided into six smaller groups and role play a specific category of vulnerable prisoner: women prisoners; life and long-term prisoners; mentally ill prisoners; prisoners under a death sentence; elderly prisoners; and foreign prisoners. Each group goes through the following exercises:

- Identify the strengths in your prisons in relation to your specific category of vulnerable prisoners.
- Identify the weaknesses in your prisons (or prison service) in relation to your specific category of vulnerable prisoners.
- Recommend some practical ways of addressing the identified weaknesses (facilities, policies, practices, services, resources, training, etc.).



Review

The main points to be reviewed will be:

1. When managing prisons, it is important to categorize prisoners properly and into groups which required special consideration.
2. International standards and norms clearly call for the proper assessment and treatment of these groups because imprisonment causes them to become more vulnerable to discrimination and abuse. The kind and extent of the vulnerability needs to be assessed so that the proper protection and services can be afforded to them.
3. International standards and norms say that all human beings are equal before the law and deserve access to the same rights regardless of gender, age, race, religion, language, or the state of one's mental or physical health. These standards apply within prisons as much as they do to ordinary citizens.



10. Children and youth in prison

Introduction

In this chapter, participants are reminded that children and youth are usually the most vulnerable group of all in prisons. This is why an entire chapter is dedicated to them in this Handbook. The vulnerability of children and youth stems from the fact that they are in their developmental and formative years and have not yet grown into functioning adults. They can be taken advantage of by adults because of their naivety; they mostly have to depend on adults for support and protection; and they have little control over their own environment.

For the purpose of this Handbook, the words “child”, “youth” and “juvenile” will be defined as anyone under the age of 18. The laws of each country define the age of criminal responsibility and the age of adulthood.

The most important message of this chapter is that the imprisonment of children and youth should be avoided whenever possible and the younger the person the more strongly it should be avoided. Youth imprisonment where absolutely unavoidable should be for the shortest period possible and in conditions that do not affect the normal development of that individual. The younger the child, the less they tend to understand the full consequences of their actions. Placing them in prison can affect their future development and destroy any hope one may have of teaching them how to function well in society. Prison is not the best place for children and youth to learn from their mistakes and make changes to their behaviour. In order for them to learn how to lead useful and productive lives, it is usually better to rely on alternative ways to respond to their misbehaviour. In prison, children and youth are likely to develop relationships with other criminals, to develop a negative self-image, or to lose contact and any close ties with family members. Unless it is provided in prison, their formal education is interrupted by the period of incarceration which often makes it impossible for them to reintegrate into the education system.

Although prison leaders do not have much influence over whether a child or youth is sentenced to prison in the first place, there is much that can be done to ensure that the rights of children are respected, that the circumstances in which children are detained

are as close to international standards as possible, and that children and youth receive as much support and protection as possible while in prison. Prison leaders should ensure that guards and staff understand the importance of these standards. Much can also be done to facilitate the eventual successful reintegration of young offenders in the community.



Learning objectives

- To examine the profile and situation of children and youth in prison in the country.
- To understand the importance of avoiding imprisonment for children and youth and only using it as a last resort and only when necessary.
- To understand international standards and norms relating to children and youth in prisons.

International standards and norms

Due to the particularly harmful effects of detention and imprisonment on juveniles, numerous international instruments rule that they should be kept out of prison, and that offences committed by juveniles should be dealt with in the community, as far as possible. The United Nations Convention on the Rights of the Child, Article 37 (b) rules that “no child should be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time”, a principle also reflected in Rule 19.1 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules). Part 5, Rules 26.1-26.6 of the Beijing Rules set out the objectives of institutional treatment of juveniles. The first objective (Rule 26.1) is “to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society”. Rules 27.1 and 27.2 rule that SMRs apply to juvenile offenders in institutions, and that these rules should be implemented “to the largest possible extent so as to meet the varying degrees of juveniles specific to their age, sex and personality”.

By international standards and norms, children should not be imprisoned unless absolutely necessary and only as a last resort. Detention should also be for the least amount of time. They should be treated with humanity and respect. They should also not be detained together with adults in the same facilities. Parents or guardians should have access to imprisoned children. On top of being entitled to the general human rights that relate to adult prisoners, while in custody children should receive the care, protection, educational, medical and psychological needs that they require for their age, gender and personality.

Convention on the Rights of the Child

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (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 persons of 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;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Deprivation of Liberty

United Nations Rules for the Protection of Juveniles Deprived of their Liberty

1. The juvenile justice system should uphold the rights and safety and promote the physical and mental well-being of juveniles. Imprisonment should be used as a last resort.
2. Juveniles should only be deprived of their liberty in accordance with the principles and procedures set forth in these Rules and in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules). Deprivation of the liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases. The length of the sanction should be determined by the judicial authority, without precluding the possibility of his or her early release.

Detention Pending Trial

United Nations Standard Minimum Rules for the Administration of Juvenile Justice

13. Detention pending trial
 - 13.1 Detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time.

13.2 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 educational setting or home.

13.3 Juveniles under detention pending trial shall be entitled to all rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations.

13.4 Juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.

13.5 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.

Least Possible Institutionalization

United Nations Standard Minimum Rules for the Administration of Juvenile Justice

19. Least possible use of institutionalization

19.1 The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period.

Applicability to Juvenile Offenders of the United Nations Standard Minimum Rules for the Treatment of Prisoners

27. Application of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations

27.1 The Standard Minimum Rules for the Treatment of Prisoners and related recommendations shall be applicable as far as relevant to the treatment of juvenile offenders in institutions, including those in detention pending adjudication.

27.2 Efforts shall be made to implement the relevant principles laid down in the Standard Minimum Rules for the Treatment of Prisoners to the largest possible extent so as to meet the varying needs of juveniles specific to their age, sex and personality.

Semi-institutional Arrangements for Juvenile Offenders

United Nations Standard Minimum Rules for the Administration of Juvenile Justice

29. Semi-institutional arrangements

29.1 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.

Issues and challenges

Building or establishing a juvenile justice system can be very costly especially if it includes juvenile prisons, specialized courts, judges, prosecutors and law enforcement. There are ways to reduce the cost of such a system. Separate sections or wings of adult prisons may be designated for juveniles with appropriate security measures to ensure adults do not have access to the juveniles; prison guards can be trained in how to care for juveniles offenders.

Juveniles in prison have special needs and prison officials dealing with them should attempt to work as closely as possible with family members, community organizations and government organizations responsible for child protection and education.

If imprisoned, juveniles should be kept in an institution as close as possible to their residence so as to encourage continued family visits and contacts. Juveniles must be allowed as many visits from their family members as possible. Family ties are important in dealing with juveniles and the prison authorities should facilitate family visitations as often as feasible. Care should be taken when dealing with family members as sometimes the source of the delinquency can be abuse by a family member.

It is sometimes difficult to determine the age of a child if they are orphaned or born in areas where birth records do not exist. If the child does not know his/her own age it is then up to the authorities to estimate the child's age and record that number at the time of admission. They should also gather as much information as possible from neighbours, friends and family members.

Status offences such as vagrancy are crimes in many countries and children are simply taken to a detention centre and unnecessarily held in detention for long periods of time. Prison is never an appropriate solution to the problem of "street children" or orphans.

Because of their lack of skills, youth should be directed to educational homes or centres to assist them with proper reintegration into society. Prison officials can sometimes work effectively with non-governmental organizations and other community groups to prepare children and youth for the re-entry into society and their successful social reintegration.

There is often no valid reason for keeping children in detention pending a trial or a court proceeding. Detention of children and youth pending trial should be as short as possible; they should be kept in separate cells from adults, and as far as possible alternative measures should be used, e.g. placement with a family or educational setting or home.

While in prison, children should not only be kept separately from adults, but they should be kept in conditions that will allow their normal social, emotional and intellectual development. Formal education programmes should be provided to children in prison; this can be achieved through collaboration with community organizations and the ministry of education. Vocational training for youth detained for long periods of time is actually crucial; it helps these young people develop their self-confidence and their skills, it prepares them for a successful reintegration into society, and it makes them employable once they return to the community.



Activities and discussion topics

In smaller groups discuss the following:

- Discuss the situation of youth prisoners in your country—how many, where are they imprisoned, how are records kept?
- What are the different ways of dealing with children in conflict with the law in your country?



Review

1. Children, youth and juveniles do not belong in prison. Prison should only be used as a last resort and only in very necessary cases, and then only for the shortest period possible. Alternatives to incarceration can be particularly successful in the cases involving juveniles; the latter are young and pliable and they have a greater capacity to change their behaviour and to learn how to avoid criminal behaviour. They are also more able to learn new skills and increase their educational level.
2. Juveniles in prison are not only entitled to all the same rights as those that are afforded to adults, but they have additional needs such as the need for nutritional food to help them grow healthy bodies; education to teach them skills and knowledge; medical treatment as they may not be able to fight off illnesses as well as adults.
3. Juveniles should always be kept separately from adult prisoners to ensure their safety and protection.
4. Contacts with family and community organizations are especially important for juveniles in prison and prison authorities should make special allowances for regular visitations.



11. Managing the prison population

Introduction

In this chapter we will learn about key factors that contribute to the efficient administrative management of the prison. The chapter will highlight: prisoner admission; records management; prisoner classification; and, prisoner release and after-care. An important foundation to all of these topics is the availability and accuracy of prisoner information.

Prison leaders require good information about their prison population in order to manage the prisoner effectively. Accurate information allows better decisions to be made on security, food supply, transportation requirements, staffing needs and also provides the basis for additional resources because it can be used to justify a need. Being able to report accurately on how many prisoners need to be fed, clothed, transported, treated medically, require separate cells, require other special needs will also demonstrate, as discussed in the chapter on human and financial resource management, how well the prison is being managed. As mentioned in the chapter on effective leadership, the more information the prison leader has, the better the decisions he/she will make and the more effective a leader he/she will be.

Accurate prisoner information will also assist both regional offices and headquarters in their overall planning exercise for future needs.

Last but not least, accurate prisoner information, including reasons for and length of imprisonment is a minimum standard for the treatment of offenders. The prisoner has a right to know what is in his or her file, to have access to it and to have all the information recorded correctly. An error or omission could have very serious consequences for the offender. It is therefore incumbent upon the prison leaders to ensure that staff working in records and admissions do their job well and that checking mechanisms are in place to verify all entries recorded on file.



Learning objectives

The objectives of this module are:

- To demonstrate the importance of setting in place good prisoner admission and intake procedures; good prisoner record management; well defined prisoner classification procedures; and, adequate prisoner release procedures and sufficient aftercare services. All of these procedures are essential to the efficient and fair management of the prison population.
- To recognize the relationship between these practices and relevant international and regional norms and standards.
- To understand the importance of maintaining an accurate and reliable prisoner information management system.
- To identify some good practices in prison population management.
- To identify operational issues and impediments to enhancing or implementing inmate population management practices in prisons.
- To consider strategies to enhance or implement better prisoner population management practices in a prison service.

International standards and norms

Registers and record of detention

Rule 7(1) of the Standard Minimum Rules for the Treatment of Prisoners reads:

In every place where persons are imprisoned, there shall be kept a bound registration book with numbered pages in which the following shall be entered in respect of each prisoner received:

- (i) Information concerning his/her identity
- (ii) The reasons for his/her commitment and the authority thereafter

No person shall be received in an institution without a valid commitment order of which the details have been previously entered in the register.

Article 10 (2) of the Declaration on the Protection of All Persons from Enforced Disappearance reads:

Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to family members, their counsel or to any other person having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.

Article 10 (3) of the Declaration on the Protection of All Persons from Enforced Disappearance reads:

An official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, each state shall take steps to maintain similar centralized registers. The information contained in these registers shall be made available to the persons mentioned in the preceding paragraph, to any judicial or other competent and independent national authority and to another competent authority entitled under the law of the state concerned or any international legal instrument to which a state concerned is a party, seeking to trace the whereabouts of a detained person.

Rules 67 to 69 of the Standard Minimum Rules for the Treatment of Prisoners read:

67. The purposes of classification shall be:

(a) To separate from others those prisoners who, by reason of their criminal records or bad characters, are likely to exercise a bad influence;

(b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.

68. So far as possible separate institutions or separate sections of an institution shall be used for the treatment of the different classes of prisoners.

69. As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him in the light of the knowledge obtained about his individual needs, his capacities and dispositions.

Rule 60 (2) of the Standard Minimum Rules for the Treatment of Prisoners reads in part:

Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organized in the same institution or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.

The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it. Community agencies should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners.

Rule 64 of the Standard Minimum Rules for the Treatment of Prisoners reads;

The duty of society does not end with a prisoner's release. There should, therefore, be governmental or private agencies capable of lending the released prisoner efficient after-care directed towards the lessening of prejudice against him and towards his social rehabilitation.

Article 30 of the 2002 Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa—The Robben Island Guidelines reads:

Ensure that comprehensive written records of those deprived of their liberty are kept at each place of detention, detailing, inter alia, the date, time, place and reason for the detention.

Issues and challenges

Prisoner admission and classification

Prisoners are very vulnerable at the time of admission especially if they are first time offenders. They should therefore be treated humanely and with dignity. Prison authorities should check on the validity of the detention ensuring all the relevant paperwork and documentation is in order and duly signed by the competent judicial authority.

Some form of information session for newly admitted prisoners is advisable in order to ensure that the prisoner understands procedures and what is expected of him/her. A brief assessment should also take place to determine if the individual requires medical attention or if they pose a threat to themselves or to others. They should also be more thoroughly assessed in order to classify them correctly and identify any special needs they may have.

Classification can be described as the placement process of the prisoner to the most appropriate prison or section of a prison that will adequately address the issues of health, safety and security while at the same time contributing to the timely preparation for the prisoner's eventual release.

Registry and records management

Prison registries and records are vital in order for managers to know who are in their prisons at all times. This information should be kept in a central and secure place and be constantly updated. Where prison records are poor, there is a great risk of individual prisoners becoming “lost” in the system and no one knows why they are being detained, for how long and when they should be released. In many countries it has happened that “lost” prisoners thought to have been released were “discovered” still in prison many years later. Good prisoner data management is critical to ensuring that their human rights are respected and it is also important in terms of the management of the prison itself.

Ensuring effective data management systems, including the basic prerequisite of maintaining adequate files for individual prisoners, is essential for the effective management of any prison system. This is true for two critical reasons. First, to meet human rights obligations to ensure that there are adequate records of prisoners detained in order that individual prisoners are not “lost in the system”. Secondly, prison systems with weak data management systems are poorly placed to be able to either review or monitor the overall profile of the prisoner population. Without such information, any attempt at

strategic planning and reform efforts, including the design of adequate alternatives to imprisonment, would be impossible.

It is recognized that a prison register should at a minimum contain the following information:

1. Details of the prisoner:
 - i. name
 - ii. date of birth
 - iii. gender
 - iv. identifying features
 - v. address
 - vi. nationality
 - vii. language
2. Legal authority for imprisonment
3. Date of admission
4. Date of release
5. Details of next of kin
6. A list of personal property (distinguishing between those which the person can keep in his/her possession and those which is stored by the authorities)
7. Signatures (of the member of staff who completed the forms and of the prisoner to confirm that he/she has been given details of his/her rights)
8. A separate medical record
9. Information on important particularities of the prisoner, e.g. prisoners belonging to different and opposing gangs should not be accommodated together in the same cell or dormitory. Having not considered this situation has resulted in many deaths and violence in prisons.

Checklist for enhancing a prisoner file management system

- Are there dedicated personnel responsible for creating and maintaining prisoner files and registers?
- Is there a system where data entered by one prison officer can be counterchecked by another to avoid mistakes being made and left on prisoner files?
- Are the files organized in a systematic way? Are they stored in a secure area, accessible only to authorized personnel?
- Are there clear guidelines to personnel on what information needs to be collected, how the information is collected and how it is organized within each individual file?

- Is there a central file register to record where individual files are located and who has accessed them?
- Are medical files kept separately from general prisoner files? Are there dedicated personnel responsible for these files?
- What procedures are in place to monitor how files are released to personnel and how information within the files is shared with external parties?
- What procedures are in place to support the transfer of files between institutions?
- Are the prisoner file management procedures written down and made available to relevant personnel? Is induction or training provided to personnel to ensure they work in compliance with the procedures?

Prisoner release and aftercare

The process of preparation for release and social reintegration begins in prison and continues after release. There is a need for continuity of assistance spanning this entire period. This requires close liaison between social agencies and services, as well as relevant community organizations and prison administrations during sentence. In addition, there needs to be a programme of assistance to prepare for release close to the date of release (often starting one month prior to the release date), to ensure that the social and medical support needs of the prisoner are met and continue uninterrupted after prison.

Pre-trial pre-disposition prisoners

In managing the prison population, prison managers should consider how to accommodate pre-trial pre-disposition prisoners. These prisoners must be presumed innocent. They are not being held in prison as punishment and therefore should be treated very differently from convicted offenders. In some countries the terminology for the place of detention for such people is different from those who have been imprisoned as a result of a sentence.

Vulnerable groups

Women, children, mentally ill offenders, the elderly, those under a death sentence, and those acting as witnesses for the prosecution are often in need of special consideration and protection in prisons. Female prisoners with babies or very young children should be allowed to remain together as long as the babies are not at risk of being harmed by their mother. As far as possible these groups should be kept in separate places to avoid being harmed by others.

Another vulnerable group are those prisoners who have committed certain crimes such as rape and murder of children. They may become targets of other prisoners and murdered in the name of “justice” (e.g. the so-called *crimes hediondos* in Brazil).

Where prisons are overcrowded, prison leaders should consider the avoidance of violence and death as the criteria in classifying prisoners.



Activities and discussion topics

Questions to be discussed in small groups:

- Why is the obtaining and retention of accurate prisoner-related information important?
- Where should the information come from? Is prisoner self-reporting sufficient?
- Do prisoners have access to their files or recorded information?
- What recourse does a prisoner currently have if he or she disagrees with the accuracy of the recorded information?
- Are there ways to improve the way prisoner information is collected now?
- What other prisoner information do you need in order to manage your prison better?
- How are pre-trial/pre-sentenced prisoners and vulnerable groups managed within your institution?



Review

The main points to be reviewed will be:

1. Accurate prisoner information is critical for a number of reasons: it provides the basis for effective planning and financial resource allocation which in turn form the basis of good management of the prisons
2. Prisoners deserve and have the right to have accurate personal information recorded on their files or in the registry.

12. Safety and security, control and discipline within prisons

Introduction

In this chapter, we consider how to ensure safety and security within the prison through control and disciplinary measures. The safety of prisoners, staff and visitors are likely to be the highest priority of any prison leader, and yet he or she must also be very mindful to use the appropriate measures or level of force when implementing control or discipline.

In general terms, security measures refer to the actions that the prison authorities take to prevent prisoners from escaping or causing harm to others. Safety measures refer to the actions that the prison authorities take to maintain good order and control in prison to prevent prisoners being disruptive and to protect vulnerable prisoners. Safety measures in prisons should be supported by a disciplinary system that is fair and just.

Conventional means of security include walls, bars, locks, keys, gates, movement detectors, other technological devices and perimeter sterile areas. Security and safety procedures include proper categorization and assessment, searching and standing operation procedures.

The proper classification of prisoners based on risk assessment is one of the most important steps prison managers must take to ensure safety and security in their prisons. The security measures to which prisoners are subject should be the minimum necessary to achieve their secure custody. This will enable prison staff to supervise more efficiently the smaller number of prisoners who pose a real danger to others; it will also ensure that the prison environment is as humane as possible and that financial resources are not unnecessarily allocated to ensure highly secure conditions for a large number of prisoners who do not require such a level of security.



Learning objectives

The objectives of this module are:

- To examine the main elements of prison safety and security: security measures (to prevent escapes), control and punishment (to maintain order and to deal with

disruptive prisoners), and human rights safeguards, and how the three elements are used in conjunction with each other to establish safety and security.

- To examine the use of force in different circumstances, understand what kind of force is warranted under different conditions, and the principle of proportionality.
- To examine the use of discipline, punishment, solitary confinement and other methods of control.
- To examine contingency planning, e.g. fire outbreaks.
- To review how the methods of ensuring prison safety and security impact vulnerable groups such as women prisoners, e.g. methods of search, and admission procedures.

International standards and norms

Standard minimum rules for the treatment of prisoners

Discipline and punishment

27. Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.

28. (1) No prisoner shall be employed, in the service of the institution, in any disciplinary capacity.

(2) This rule shall not, however, impede the proper functioning of systems based on self-government, under which specified social, educational or sports activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purposes of treatment.

29. The following shall always be determined by the law or by the regulation of the competent administrative authority:

- (a) Conduct constituting a disciplinary offence;
- (b) The types and duration of punishment which may be inflicted;
- (c) The authority competent to impose such punishment.

30. (1) No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offence.

(2) No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case.

(3) Where necessary and practicable the prisoner shall be allowed to make his defence through an interpreter.

31. Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.

32. (1) Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.

(2) The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary to or depart from the principle stated in rule 31.

(3) The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

Instruments of restraint

33. Instruments of restraint, such as handcuffs, chains, irons and strait-jacket, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:

(a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;

(b) On medical grounds by direction of the medical officer; (c) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.

34. The patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer time than is strictly necessary.

Basic Principles for the Treatment of Prisoners

7. Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.

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

Principle 6

No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.* No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

* The term "cruel, inhuman or degrading treatment or punishment" should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently, of the use of any of his natural senses, such as sight or hearing, or of his awareness of place and the passing of time.

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990

General provisions

1. Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials. In developing such rules and regulations, Governments and law enforcement agencies shall keep the ethical issues associated with the use of force and firearms constantly under review.
2. Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons. For the same purpose, it should also be possible for law enforcement officials to be equipped with self-defensive equipment such as shields, helmets, bullet-proof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind.
3. The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.
4. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.
5. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:
 - (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
 - (b) minimize damage and injury, and respect and preserve human life;
 - (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
 - (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.
6. Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with principle 22.
7. Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.
8. Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

Special provisions

9. Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

10. In the circumstances provided for under principle 9, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident.

11. Rules and regulations on the use of firearms by law enforcement officials should include guidelines that:

- (a) Specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted;
- (b) Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;
- (c) Prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;
- (d) Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;
- (e) Provide for warnings to be given, if appropriate, when firearms are to be discharged;
- (f) Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.

Policing unlawful assemblies

12. As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14.

13. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.

14. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9.

Policing persons in custody or detention

15. Law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.

16. Law enforcement officials, in their relations with persons in custody or detention, shall not use firearms, except in self-defence or in the defence of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger referred to in principle 9.

17. The preceding principles are without prejudice to the rights, duties and responsibilities of prison officials, as set out in the Standard Minimum Rules for the Treatment of Prisoners, particularly rules 33, 34 and 54.

Qualifications, training and counselling

18. Governments and law enforcement agencies shall ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions and receive continuous and thorough professional training. Their continued fitness to perform these functions should be subject to periodic review.

19. Governments and law enforcement agencies shall ensure that all law enforcement officials are provided with training and are tested in accordance with appropriate proficiency standards in the use of force. Those law enforcement officials who are required to carry firearms should be authorized to do so only upon completion of special training in their use.

20. In the training of law enforcement officials, Governments and law enforcement agencies shall give special attention to issues of police ethics and human rights, especially in the investigative process, to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd behaviour, and the methods of persuasion, negotiation and mediation, as well as to technical means, with a view to limiting the use of force and firearms. Law enforcement agencies should review their training programmes and operational procedures in the light of particular incidents.

21. Governments and law enforcement agencies shall make stress counselling available to law enforcement officials who are involved in situations where force and firearms are used.

Reporting and review procedures

22. Governments and law enforcement agencies shall establish effective reporting and review procedures for all incidents referred to in principles 6 and 11 (*f*). For incidents reported pursuant to these principles, Governments and law enforcement agencies shall ensure that an effective review process is available and that independent administrative or prosecutorial authorities are in a position to exercise jurisdiction in appropriate circumstances. In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control.

23. Persons affected by the use of force and firearms or their legal representatives shall have access to an independent process, including a judicial process. In the event of the death of such persons, this provision shall apply to their dependants accordingly.

24. Governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use.

25. Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on law enforcement officials who, in compliance with the Code of Conduct for Law Enforcement Officials and these basic principles, refuse to carry out an order to use force and firearms, or who report such use by other officials.

26. Obedience to superior orders shall be no defence if law enforcement officials knew that an order to use force and firearms resulting in the death or serious injury of a person was manifestly unlawful and had a reasonable opportunity to refuse to follow it. In any case, responsibility also rests on the superiors who gave the unlawful orders.

Issues and challenges

Prison rules and procedures must be clear and well known by staff and prisoners alike. The text of prison rules should be accessible and available to all staff and prisoners. Procedures for disciplinary action should be spelled out and made explicit to all concerned. There must be a due process for determining appropriate disciplinary measures on inmates, including a possibility for appeal.

When it comes to the use of force by prison officials, the practical application of the word “appropriate” requires leaders to ensure that certain processes and procedures are carefully and consistently followed and that the rights of all those concerned are respected. When violations occur, action must be to rectify the situation and provide redress when necessary.

The terms “excessive force” and “force as a last resort” should be spelled out very clearly in prison policies and standing orders, as well as in the training material used for new recruits. Policies, internal regulations, and training manuals should describe what kinds of weapons or control devices can be used in what kinds of circumstances. There should be very clear criteria for assessing breaches of security or threats to safety. Behaviour such as an attempted escape, a hostage taking, or the possession of a potential weapon happen fairly regularly within prisons all over the world so prison leaders should ensure that clear protocols and plans are developed and regularly reviewed and updated, and that staff are briefed on any changes in procedures.

The challenge in any disciplinary system is to respond to indiscipline in a way which guarantees the security and safety of inmates and staff while also ensuring that prisoners learn to respect existing rules and regulations. The term “learning a lesson” differs from one country to country and from one culture to another, some imposing much harsher punishments than others.

A clear matrix of behaviour and response may help officers decide what to do in those circumstances. When the circumstances involve a prisoner shouting or acting deranged, more complex psychological assessment mechanisms may be needed to gauge the situation and to measure the response. It should not always be assumed that offenders are dangerous and threatening. The response team should always include an experienced officer who can assist the newer officers with learning to deal with such offenders in the future. If the response team only comprises recent recruits, they may panic or react too quickly and not make the right decision.

It is now generally acknowledged that safety and security in prisons depend on creating a positive climate which encourages the cooperation of prisoners. External security (preventing escapes) and internal safety (preventing disorder) are best ensured by building positive relationships between prisoners and staff.

Placing an emphasis on the need for prison staff to establishing good relationships with prisoners is usually referred to as “dynamic security”. This concept rests on the notion that engaging with prisoners and getting to know them can enable staff to anticipate and better prepare themselves to respond effectively to any incident that may threaten the security of the prison and the safety of staff and inmates. The principles of dynamic security are more easily applied in institutions where there is an adequate ratio of staff to prisoners.

Dynamic security refers to the interaction between staff and prisoners, with staff developing a situational awareness enabling them to prevent escapes and disruption before they are attempted. The concept of dynamic security includes:

- Developing positive relationships with prisoners
- Diverting prisoners’ energy into constructive work and activity
- Providing a decent and balanced regime with individualized programmes for prisoners
- Establishing an adequate ratio of staff to prisoners

Good conduct and cooperation on the part of the inmates can also be encouraged with a system of privileges appropriate for the different classification of prisoners.

In far too many prisons in the world, prisoners are tortured. Instruments of restraint such as leg chains, irons and straightjackets are used unnecessarily. Brutal methods of control are used to maintain order. The use of force is not effectively regulated and the abusive use of force goes unreported and unpunished. This does not in any effective manner contribute to prison security, on the contrary, it multiplies violence within prisons, and certainly contradicts the fundamental social objectives of incarceration.

Different levels of risk call for different levels of security. Assessing the risk and security level of each incoming prisoner ensures that the organization has the information it needs on each individual which would ensure that any disruptive behaviour could be anticipated to allow prison managers to deploy staff quickly to those areas that require more attention. There are different kinds of risks (e.g., risk of escape, risk of harming other prisoners, harming themselves or harming prison staff). Separating the low, medium and high-risk offenders is typically used as a means of effective prison management. Sometimes, an individual with a low risk assessment can later become a higher risk and may have to be moved. It is important that individuals are assessed on a constant basis and an effective way to do this is through relationships built between the prison staff and the prisoners. It should also be kept in mind, in assessing risk, that certain groups of prisoners may be at risk of harm from other prisoners e.g. rapists and paedophiles are often killed or assaulted by other prisoners in the name of justice (in some cases, there is an understanding among prisoners of the differentiation between types of crimes that are “acceptable” and those that are not—in some, paedophiles are completely alienated by the rest of the prison population and require special protection). Another group of individuals who are at risk are gang members who fall victim to members of rival gangs in the same prison.

Prison managers should also consider the safety and security of certain vulnerable groups such as women, children, elderly, mentally ill, pre-trial and pre-sentence prisoners, as well as offenders who are witnesses for the prosecution and therefore may require special protection. In some prisons, homosexuals are targets of abuse and would be considered another vulnerable group. It would be important to assess the threats to those groups carefully in order to make the necessary safeguards.

Solitary confinement and restraints should only be used as short-term measures for the high-risk high security prisoners. Continuous risk assessment will help determine the length of time that is necessary for such measures.

The use of physical restraints such as handcuffs, chains, irons and straightjackets should be limited and regulated. The use of such restraints should be limited to exceptional situations or used, for short periods of time, in situations such as when a prisoner is transferred and there is a risk that he/she might escape. When restraints are used during the transfer of prisoners, they should be removed as soon as the prisoners have been secured in their final destination.

Punishment for bad behaviour should never include beatings or other forms of corporal punishment. Withholding food and water should also be avoided as a form of punishment.

Searches of cells and of the person are common within prisons to ensure that weapons, contraband, drugs, etc are not present, as they would pose a security threat. Search procedures should be clearly established in writing and should be known among staff conducting those searches. Cell searches should be done in a way that shows respect for the prisoner’s personal belongings while body searches should be carried out without causing disrespect or physical pain.



Activities and discussion topics

Discuss in smaller groups:

- What difficulties do you foresee in applying international standards to safety and security measures?
- What are the most common ways used to control disruptive individuals in your prison? Would you consider “excessive force” a problem within your institution? Are guards encouraged to use “force as the last resort”? How do you ensure only the minimum force necessary is used?
- What are the standing orders for dealing with disruptive or difficult prisoners? How are such prisoners dealt with in practice?
- How could the principles of “dynamic security” be implemented in your institution?
- How well do staff know individual prisoners?
- What is the greatest training need for prison staff in terms of security?
- How are internal investigations on prisoner incidents carried out?
- Do you have an incident response protocol/procedure?
- Do you have an incident reporting system? How and who evaluates these reports?
- How are prisoners classified at intake or admissions? How can these procedures be improved?
- How are risk assessments performed on prisoners at intake?



Review

1. In a very practical sense, maintaining safety, security, good order and control over the prison population is the prison manager’s immediate objective. This, however, can and must be achieved in the respect of the rights of prisoners. Control, appropriate use of force and restraints, and fairly administered disciplinary procedures are the main tools available.
2. “Excessive force” should never be used. The use of only the minimum force necessary is what should be encouraged in all circumstances.
3. It is essential to have clarity in prison policies, procedures, regulations and practices about which control measures are permitted and which are not, clarity about what kinds of disciplinary measures are acceptable and how and by whom they should be administered. All security procedures and protocols should be in writing. They should

be clearly communicated to staff and explained as part of staff training. They should also be reviewed regularly.

4. The use of torture, brutality and other forms of harsh punishment should never be allowed on prisoners. Restraints such as handcuffs, chains, straightjackets should only be used for very limited circumstances and only when absolutely necessary.
5. Prison managers have a responsibility to take the initiative to find positive and constructive ways to achieve a safe and secure environment within the institution for which they are responsible. They must establish adequate security classification procedures and set in place the necessary security measures to ensure the safety of prisoners and staff and prevent escapes. They may also, for instance, encourage staff to engage in "dynamic security".

13. Early or conditional release of offenders

Introduction

Most countries in the world have mechanisms in place that allow prisoners to be released before they have completed their full prison sentence. This chapter focus on identifying different types of early release programmes and understanding the precautions that must be taken in implementing them. Early release can take a number of forms. They range from relaxations of the prison regime that allow the prisoner a limited amount of access to the community through conditional release, to early conditional release. All of these measures are relevant to the wider objective of reducing the use of imprisonment and eventually facilitating the return of prisoners to society and their successful reintegration.



Learning objectives

The objectives of this lesson are:

- To understand the key role of prison programmes in preparing offenders for their eventual release.
- To identify different models of early release and conditional release.
- To consider strategies to introduce or enhance a conditional release system.

International standards and norms

Rule 60 (2) of the United Nations Standard Minimum Rules for the Treatment of Prisoners stipulates that:

“Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organized in the same institution or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.”

The Tokyo Rules adopt a wide-ranging approach to the issue of early release of offenders. The Official Commentary on the Tokyo Rules observes that the Rules relating to the post-sentencing stage deal with “measures to reduce the length of the prison sentences or to offer alternatives to enforcing prison sentence”. Rule 9.2 lists “post-sentencing dispositions” that should be available to achieve these objectives. They are:

- *Furlough and halfway houses* (short periods of leave from prison in the course of a term of imprisonment, or period of stay in a half-way house in preparation of the offender’s release with a greater possibility for offenders to establish contact with the community and actively prepare their re-entry into the community).
- *Work or education release* (prisoners are temporarily allowed out of prisons to work or to study while maintaining their “prisoner” status).
- *Various forms of parole* (conditional release, discretionary or not, usually under some form of community-based supervision of the offender).
- *Remission* (the prisoner is released unconditionally before the end of the sentence, in a form of unconditional release; sometimes remission is made conditional upon good behaviour in prison; in some instances conditions are attached to the release).
- *Pardon* (ordinarily means release following the setting aside of the conviction or sentence, is also a form of unconditional release).

Rule 9.3 provides that “The decision on post-sentencing dispositions, except in the case of pardon, shall be subject to review by a judicial or other competent independent authority, upon application of the offender.”

Issues and challenges

The vast majority of prisoners are released. A planned conditional release that facilitates their integration into the community offers the public better protection because it makes it less likely that former offenders will continue their criminal behaviour. Good conditional release programmes are usually preceded by pre-release prison programmes prior to the release to prepare the offender for re-entry into society, accompanied by professional supervision (with or without the assistance of volunteers and usually with the collaboration of the police) of the offender, and various forms of assistance offered to offenders to facilitate their social reintegration.

In a conditional release programme, a system and a number of procedures must be put in place to ensure fair and efficient decision-making with respect to the release of offenders. There must be a continuum of support starting from the prison and extending into the community including a network of friends and family available to help the prisoner. Contact with supervisory officers must be regular and constant and a good relationship should exist between the prisoner and his supervisor so that he/she feels safe and comfortable enough to contact the supervisor if a need or problem arises.



Activities and discussion topics

In small groups, discuss the following:

- What role does the prison play in preparing prisoners for their release from prison? How can it best do so?
- What forms of early release from prison are currently available in your country?
- Who is or should be responsible for the smooth transition of the prisoner from the prison to the community? What community agencies need to be involved?
- Do you think that a conditional release system could contribute to a reduction in your prison population?
- What kind of conditional release system would be most easily adaptable to your country?
- What are the main challenges that you would expect to be facing in the development and implementation of a parole system in your country?
- How do you see the involvement of your partners in the criminal justice system and the community in the development of a parole system?
- In your view, should conditional release (parole) decision makers be independent from the prison system?
- What capacity is there at the community level to ensure the effective supervision of conditionally released offenders? How could that capacity be increased? What role can the prison service play in building or increasing that community-based capacity?



Review

1. The prison must play an active role in preparing offenders for their re-entry into the community.
2. Early discretionary release of offenders with community-based supervision can contribute significantly to the successful reintegration of prisoners in the community.
3. Conditional prisoner release to the community prior to the expiration of the sentence is consistent with international standards.
4. Various forms of early and conditional release can help reduce the size of the inmate population.
5. Proper procedures must be put in place for the effective implementation of a discretionary release system.
6. A capacity to effectively supervise offenders in the community must be developed as part of the implementation of a conditional release programme.



14. Alternatives to imprisonment

Introduction

In general terms, imprisonment serves certain purposes, such as: it is a form of punishment for a crime by depriving the offender of his or her liberty, it keeps persons suspected of having committed a crime under secure control before their guilt or innocence is determined by a court; it keeps offenders from committing further crimes while they are in prison; it is also supposed to rehabilitate offenders and teach them new skills so that on release they can lead honest, crime-free lives.

Overall, the rehabilitative function of prison in countries all over the world has not been as successful as it should be. Indeed, in many countries, offenders in prison learn more about how to commit further crimes than they do anything else. Often on release they have no more skills than they had when they were incarcerated and therefore often go back to offending. This leads to a cycle of release and imprisonment, which does nothing to reduce overcrowding in prisons or to build safer communities.

International standards suggest that imprisonment should only be used as a last resort and that non-custodial sentences should be used as much as possible. If the offender has to be imprisoned then international standards say that he or she should be released as early as possible into a non-custodial community-based programme. Of course the decision whether to impose a non-custodial sentence will depend on many factors including the protection of society and the victim of the crime, the rehabilitative needs of the offender and the availability of resources in the community to support the offender.

Prison leaders do not have much to do with whether or not an offender serves his or her sentence in a prison or in the community serving a non-custodial sentence. That is up to the courts. However, in some countries one of the responsibilities of a prison director is to care for and supervise offenders who are sentenced to non-custodial sentences.

In this chapter, prison leaders will learn about different kinds of non-custodial sanctions that are available in various jurisdictions. The sanctions can be alternatives to imprisonment at the time of sentencing, alternatives to remand in custody or as early release options following a period of imprisonment.

Many diversion and community programmes for juvenile offenders have been shown to have a real impact on the successful rehabilitation of young offenders. Other vulnerable groups which can benefit from alternatives to imprisonment include women, the mentally ill and drug user/addicts. Successful pre-trial diversion and early release programmes for drug addicts have proven to reduce the prison population in some countries. With all these groups, community involvement and support is an important component to have to ensure that the alternative methods have a chance to work.



Learning objectives

- To identify various alternatives to the use of imprisonment for remand prisoners.
- To identify community-based alternatives to imprisonment that can be made available at the time of sentencing or as an early release option following a period of imprisonment.
- To consider how to introduce or enhance the effectiveness of these alternatives in the country.
- To identify issues and impediments to enhancing or introducing these alternatives.

International standards and norms

Rule 2 (Scope of Non-custodial measures) of the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) reads:

2.1 The relevant provisions of the present Rules shall be applied to all persons subject to prosecution, trial or the execution of a sentence, at all stages of the administration of criminal justice. For the purposes of the Rules, these persons are referred to as "offenders", irrespective of whether they are suspected, accused or sentenced.

2.2 The Rules shall be applied without any discrimination on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status.

2.3 In order to provide greater flexibility consistent with the nature and gravity of the offence, with the personality and background of the offender and with the protection of society and to avoid unnecessary use of imprisonment, the criminal justice system should provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions. The number and types of non-custodial measures available should be determined in such a way so that consistent sentencing remains possible.

2.4 The development of new non-custodial measures should be encouraged and closely monitored and their use systematically evaluated.

2.5 Consideration shall be given to dealing with offenders in the community, avoiding as far as possible resort to formal proceedings or trial by a court, in accordance with legal safeguards and the rule of law.

2.6 Non-custodial measures should be used in accordance with the principle of minimum intervention.

2.7 The use of non-custodial measures should be part of the movement towards depenalization and decriminalization instead of interfering with or delaying efforts in that direction.

Rule 3 (Legal safeguards) of the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) reads:

3.1 The introduction, definition and application of non-custodial measures shall be prescribed by law.

3.2 The selection of a non-custodial measure shall be based on an assessment of established criteria in respect of both the nature and gravity of the offence and the personality, background of the offender, the purposes of sentencing and the rights of victims.

3.3 Discretion by the judicial or other competent independent authority shall be exercised at all stages of the proceedings by ensuring full accountability and only in accordance with the rule of law.

3.4 Non-custodial measures imposing an obligation on the offender, applied before or instead of formal proceedings or trial shall require the offender's consent.

3.5 Decisions on the imposition of non-custodial measures shall be subject to review by a judicial or other competent independent authority, upon application by the offender.

3.6 The offender shall be entitled to make a request or complaint to a judicial or other competent independent authority on matters affecting his or her individual rights in the implementation of non-custodial measures.

3.7 Appropriate machinery shall be provided for the recourse and, if possible, redress of any grievance related to non-compliance with internationally recognized human rights.

3.8 Non-custodial measures shall not involve medical or psychological experimentation on, or undue risk of physical or mental injury to, the offender.

3.9 The dignity of the offender subject to non-custodial measures shall be protected at all times.

3.10 In the implementation of non-custodial measures, the offender's rights shall not be restricted further than was authorized by the competent authority that rendered the original decision.

3.11 In the application of non-custodial measures, the offender's right to privacy shall be respected, as shall be the right to privacy of the offender's family.

3.12 The offender's personal records shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the offender's case or to other duly authorized persons.

Rules 5 and 6 (Pre-trial Stage) of the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) reads:

5.1 Where appropriate and compatible with the legal system, the police, the prosecution service or other agencies dealing with criminal cases should be empowered to discharge the offender if they consider that it is not necessary to proceed with the case for the protection of society, crime prevention or the promotion of respect for the law and the rights of victims. For the purpose of deciding upon the appropriateness of discharge or determination of proceedings, a set of established criteria shall be developed within each legal system. For minor cases the prosecutor may impose suitable non-custodial measures, as appropriate.

6.1 Pre-trial detention shall be used as a means of last resort in criminal proceedings, with due regard for the investigation of the alleged offence and for the protection of society and the victim.

6.2 Alternatives to pre-trial detention shall be employed at as early a stage as possible. Pre-trial detention shall last no longer than necessary to achieve the objectives stated under rule 5.1 and shall be administered humanely and with respect for the inherent dignity of human beings.

6.3 The offender shall have the right to appeal to a judicial or other competent independent authority in cases where pre-trial detention is employed.

Rule 60 (2) of the Standard Minimum Rules for the Treatment of Prisoners reads in part:

Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organized in the same institution or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid. 61. The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it. Community agencies should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners.

Article 9.3 of the International Covenant on Civil and Political Rights (ICCPR) provides that:

It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment”.

In addition, Article 14.3 of the ICCPR stipulates that those tried on a criminal charge are entitled to a trial without undue delay. Requiring an expeditious trial can minimize the length of the period of imprisonment. Decisions about alternatives to pre-trial detention should be made at as early a stage as possible and a decision to detain should be reviewed periodically.

Issues and challenges

The question of introducing alternatives to imprisonment is often approached simply from the point of view of reducing the size of the prison population or addressing the problem of prison overcrowding. However, there is much more to the issue.

Overcrowding can be decreased either by building new prisons or by reducing the number of people staying in them. Practice shows that trying to overcome the harmful effects of prison overcrowding through the construction of new prisons does not provide a sustainable solution unless the prisons are very old and there have been no newly constructed prisons for a very long time. Indeed, a number of European

countries have embarked on extensive programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. In addition, building new prisons and maintaining them is expensive, putting pressure on valuable resources. It does make sense instead, as suggested by numerous international instruments, to focus on diminishing society's reliance on prisons and reviewing existing sentencing policies, including the wider use of community supervision and other alternatives to prison.

In order to meet the objective of reducing the number of prisoners, comprehensive reform of criminal legislation needs to be undertaken and sentencing practices need to be changed. Measures that can be introduced include decriminalizing certain acts, providing shorter terms of imprisonment for selected offences, in addition to introducing a wide range of non-custodial sentences as an alternative to prison and widening possibilities for parole (conditional release).

However, the goal of introducing alternatives to prison is not only to address the problem of overcrowding in prisons. The wider use of alternatives reflects a fundamental change in the approach to crime, offenders and their place in society, changing the focus of penitentiary measures from punishment and isolation, to restorative justice and reintegration. When accompanied by adequate support for offenders, it assists some of the most vulnerable members of society to lead a life without having to relapse back into criminal behaviour patterns. Thus, for most prisoners, the implementation of penal sanctions within the community, rather than through a process of isolation from it, offers in the long-term better protection for society. In the case of extremely violent, dangerous and hardened criminals however, incarceration may be the only option to protect society.

The Tokyo Rules offer a range of ways of disposing with cases in a non-custodial manner. In considering different types of alternative sanctions, there are a number of issues and challenges which participants should be aware of:

1. *Verbal sanctions, such as admonition, reprimand and warning*

Verbal sanctions may be more effective in dealing with juveniles than with adults, but judges should take care to avoid scolding the child or youth publicly as that usually does not generate positive results. Children and youth should have the laws and their wrong behaviour explained to them in language that they can understand and in a manner that is conducive to their absorbing the lesson to be learnt.

2. *Conditional discharge*

The challenge with conditional discharges is to ensure that those conditions are followed by the offender. Often those mechanisms do not exist or are not clearly defined in terms of who is responsible for them.

3. *Status penalties*

The effect of some status penalties such as taking away the medical licence from a doctor can be harsher than a prison sentence. It may mean that they might lose their means of earning a living even after they are released from prison.

It may also mean that a community loses a doctor which could affect the ability of some people from accessing medical services.

4. *Economic sanctions and monetary penalties, such as fines and day-fines*

Fines are used widely. They are quite effective as alternatives to prison and they are quick to administer. However, the problem of fines is that they impact the poor more than the rich and are therefore discriminatory. Poor people often cannot afford to pay fines. Indeed in many prisons in the world, people are imprisoned for being in debt to others. On the other hand fines are often a cheap price to pay for some rich people who would happily pay a fine for doing what they want.

5. *Confiscation or an expropriation order*

Confiscation of assets or proceeds of crime are not often imposed as alternatives to prison but rather as part of the overall way to deal with the offender when found guilty. It is a way of retrieving the equivalent amount of money that the offender has stolen or laundered or made from the crime for example. Expropriation orders involve the State taking over goods or properties of the offender. The administration of those goods or properties can impose a burden on the criminal justice system.

6. *Restitution to the victim or a compensation order*

In some countries instead of a fine the court obliges the convicted offender to pay a certain amount of money or the equivalent in kind (e.g. goods or services) to the victim as compensation. There ought to be a mechanism to ensure that the payments are made to the victim. These mechanisms should not be too cumbersome or costly.

7. *Suspended sentence or deferred sentence.*

A sentence is passed and recorded, but suspended for a specific length of time, during which the convicted person must not commit any further offences. In many countries a suspended sentence is combined with supervision by a probation service or other similar body. A deferred sentence is when a decision has been taken not to pass sentence on condition that the offender undertakes some action, such as undergoing treatment for alcoholism, drug addiction or receiving psychological counsel. Depending on the result, the offender may not receive a sentence. This mechanism can also create an additional administrative burden on the system.

8. *Probation and judicial supervision*

The arrangement for the convicted offender to continue to live in the community under the supervision of a judicial authority, probation service or other similar body. It can involve requiring the offender to attend certain courses, therapy or treatment programmes. This option requires availability of trained staff to supervise the offender. The probation service must provide the court with all the

information it needs and must be able to support and supervise the conditions of the probation order.

9. *A community service order*

Community service is work done without compensation, usually for an agency or organization for the benefit of the community. The judge may order community service in lieu of a term of imprisonment. This kind of order requires very close supervision of the offender which means it can be expensive to administer.

10. *Referral to an attendance centre*

The court can direct the offender to spend a set period of hours each day in an attendance centre over a certain period of time. The attendance centre is meant to offer a structured programme for offenders to address their offending behaviour in a group environment. Someone needs to ensure that the offender attends the centre and then that person has to keep the court fully informed of the offender's progress at the centre. This can also be expensive to administer.

11. *House arrest/limitation of freedom of movement*

The offender is obliged to live in a certain place (normally his or her residence) under the supervision of a specialized agency. The offender cannot change the place of residence, work or education without permission of the supervising body.

12. *Any other mode of non-institutional treatment*

States are encouraged to develop new forms of alternatives to prison which may be more culturally appropriate or more suitable to the particular society.

13. *Some combination of the measures listed above*

There is no reason why a combination of alternatives to prison cannot be used but care must be made not to be excessive in the effect of the punishment.

Types of pre-trial release

The size of the population of prisoners on remand is becoming a problem in many countries where the capacity of the prison system has not kept up with the steady increase in the size of that population. Many countries are looking for ways and means to alleviate this demand without building new facilities. It has led many of them to explore pre-trial release and diversion programmes as a means of relieving this source of pressure on the overall prison population. International standards suggest that pre-trial detention must be used as a means of last resort in criminal proceedings, with due regard for the investigation of the alleged offence and for the protection of society and the victim. The detention of persons who are presumed innocent is a particularly severe infringement of the right to liberty. They include:

- Financial releases
- Property bond

- Deposit bond
- Full cash bond
- Surety bond
- Non-financial releases
- Release on recognizance
- Conditional release
- Unsecured bond

Possible alternatives include releasing an accused person and ordering such a person to do one or more of the following:

- Appear in court on a specified day or as ordered to by the court in the future
- Refrain from: interfering with the course of justice; engaging in particular conduct; leaving to going to specified places or district; approaching or meeting specified person
- Remain at a specific address
- To report on a daily or periodic basis to a court, the police or other authority
- Surrender passports or other identification documents
- Accept supervision by an agency appointed by the court
- Submit to electronic monitoring
- Pledge financial or other forms of property as a security to assure attendance at trial or conduct pending trial

Diversion programmes

Under diversion strategies, authorities focus on dealing in other ways with people who could be processed through the criminal justice system. As a result, police and prosecutors, who introduce offenders into the system, have to exercise a degree of discretion in deciding whom to take action against and whom to ignore or refer to other types of intervention. The main issue in implementing diversion strategies and programmes is how to structure this discretion. Police and prosecutors need clear instructions and guidelines on how to exercise their discretion. They also need to have access to alternative resources in the community (e.g. treatment for drug addiction; treatment for mentally ill individuals, etc.). Restorative justice programmes (including mediation, alternative dispute resolution, victim-offender reconciliation programmes) often offer a worthwhile alternative to the formal criminal justice process.



Activities and discussion topics

In small groups, discuss the following:

- What non-custodial sanctions would be appropriate in your country and for what offences?
- Who would be responsible for ensuring the offenders' compliance with community sanctions?
- What community agencies could be involved in some of the alternatives to prison?



Review

The main points to be reviewed will be:

1. Prison is a punishment of last resort and should be avoided if possible. There should be more use of alternatives to imprisonment.
2. The importance of using both non-custodial sentencing alternatives and early custodial release options for all offenders but in particular for vulnerable groups such as women, juveniles and the mentally ill. International standards relating to juvenile justice strongly say that children and youth should not be imprisoned if at all possible.
3. The important role that prisons can play in the administration of many kinds of non-custodial sanctions.

15. Oversight mechanisms

Introduction

In this chapter, prison leaders will study two distinct but related subjects: whether and how prisoners are permitted to make requests or complaints, and whether and how those requests or complaints are overseen by independent mechanisms inside or outside the prison. This chapter will also address different kinds of oversight or review procedures.

In a way, this is one of the most important chapters of the Handbook. A prison system which has established fair and open processes and procedures for channelling prisoner requests and complaints can be said to be far ahead of many other systems. It would also reflect well on the prison leadership and staff. It would be an indication to any observer that the prison is well managed.



Learning objectives

- To review existing prisoner request and complaint mechanisms.
- To identify any challenges and obstacles to the establishment or functioning of those mechanisms.
- To understand the importance of prisoner complaint processes and procedures.
- To learn about the importance of internal and external inspections.

International standards and norms

Article 2 of the International Covenant on Civil and Political Rights reads:

Each State party to the present Covenant undertakes:

- (a) to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) to ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) to ensure that the competent authority shall enforce such remedies when granted.

Principle 33 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment reads:

(1) A detained or imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial power.

(2) In those cases where neither the detained or imprisoned person nor his counsel has the possibility to exercise his rights under paragraph 1 of the present principle, a member of the family of the detained or imprisoned person or any other person who has knowledge of the case may exercise such rights.

(3) Confidentiality concerning the request or complaint shall be maintained if so requested by the complainant.

(4) Every request or complaint shall be promptly dealt with and replied to without undue delay. If the request or complaint is rejected or, in case of inordinate delay, the complainant shall be entitled to bring it before a judicial or other authority. Neither the detained or imprisoned person nor any complainant under paragraph 1 of the present principle shall suffer prejudice for making a request or complaint.

Rule 36 of the Standard Minimum Rules for the Treatment of Prisoners reads:

(1) Every prisoner shall have the opportunity each week day of making requests or complaints to the director of the institution or the officer authorised to represent him.

(2) It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present.

(3) Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.

(4) Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.

Part I, Section F entitled Complaints and Investigation Procedures found in The Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines) reads:

17. Ensure the establishment of readily accessible and fully independent mechanisms to

which all persons can bring their allegations of torture and ill-treatment.

18. Ensure that whenever persons who claimed to have been or who appear to have been tortured or ill-treated are brought before competent authorities an investigation shall be initiated.

19. Investigations into all allegations of torture or ill-treatment, shall be conducted promptly, impartially and effectively, guided by the United Nations Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (The Istanbul Protocol).

Principle 29 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment reads:

(1) In order to supervise the strict observance of relevant laws and regulations, places of detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment.

(2) A detained or imprisoned person shall have the right to communicate freely and in full confidentiality with the persons who visit the places of detention or imprisonment in accordance with paragraph 1 of the present principle, subject to reasonable conditions to ensure security and good order in such places.

Rule 55 of the Standard Minimum Rules for the Treatment of Prisoners reads:

There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.

Part II, Section D entitled Mechanisms of Oversight found in The Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines) reads:

38. Ensure and support the independence and impartiality of the judiciary including by ensuring that there is no interference in the judiciary and judicial proceedings, guided by the United Nations Basic Principles on the Independence of the Judiciary;

39. Encourage professional legal and medical bodies to concern themselves with issues of the prohibition and prevention of torture, cruel, inhuman and degrading treatment or punishment.

40. Establish and support effective and accessible complaint mechanisms which are independent from detention and enforcement authorities and which are empowered to receive, investigate and take appropriate action on allegations of torture, cruel, inhuman or degrading treatment or punishment.

41. Establish, support and strengthen independent national institutions such as human rights commissions, ombudspersons and commissions of parliamentarians, with the mandate to conduct visits to all places of detention and to generally address the issue of

the prevention of torture, cruel, inhuman and degrading treatment or punishment, guided by the United Nations Paris Principles Relating to the Status and Functioning of National Institutions for the Protection and Promotion of Human Rights;

42. Encourage and facilitate visits by NGOs to places of detention.
43. Support the adoption of an Optional Protocol to the UNCAT to create an international visiting mechanism with the mandate to visit all places where people are deprived of their liberty by a State Party.
44. Examine the feasibility of developing regional mechanisms for the prevention of torture and ill-treatment.

Issues and challenges

Prisoner complaint process

Prisoners are expected to obey the rules and regulations within a prison but sometimes they may have complaints either against individual guards or against certain procedures being followed in the prison. In many countries, prisoners simply do not complain because it means they may have to face a kind of retaliation for making the complaint. Prison leaders should take an active interest in the welfare of each prisoner and ensure that there are ways in which prisoners can make requests or complaints safely and without negative or harsh consequences. Prison leaders should ensure that guards are disciplined if they ever mistreat prisoners for making requests or complaints. Prison leaders must take a strong position on defending the rights of prisoners and establishing an environment which is fair and just.

It is important that request or complaint procedures allow prisoners to register any complaints in a safe and confidential way. It is particularly important when it comes to complaints against guards or prison officials.

Prison inspections

The nature of inspections carried out in prison varies from country to country, but with most systems making provision for both an internal as well as an external system. National external inspection bodies may include commissions or persons appointed by the government, presidential human rights commissions, inspection bodies appointed by parliament, such a human rights commission, and lay inspection bodies (sometimes referred to as monitoring boards). In some countries, there is a special judge with responsibility for prison inspections, in others there are supervision boards at local level, often headed by a judge. Inspectors appointed by the ministry responsible might carry out internal inspections, as well as bodies responsible for administrative inspections.

Prison inspections may also be carried out by external bodies responsible for inspections in a variety of enterprises outside prisons. Such inspection may relate to sanitation, preparation of food, medical services, health and safety in prison industries, fire prevention, etc. Such bodies will belong to ministries other than the ministry responsible for prisons, which helps ensure the independence and objectivity of reporting.

Inspections may also be carried out by international and regional bodies, such as the Special Rapporteur on Torture of the United Nations. Independent inspection and monitoring is a basic and essential element of ensuring human rights compliance in prison systems. External independent inspection highlights abuses, protects prison staff from unfounded criticism, and helps prison managers eliminate unacceptable practices from their institution. Most importantly inspections hold prison and prison leaders accountable for what happens in the prisons.

For inspections to achieve their intended aim, they should be regular and frequent. In principle, reports should be published. The public should have access, at least, to parts of the inspection reports that do not involve prison security.

There must be adequate mechanisms in place to investigate all complaints of human rights violations. Such mechanisms must have access to all the facts and information in order to be able to inquire into the alleged complaints. There should also be investigations of human rights violations in the absence of express complaints when there are reasons to believe that any such violation has occurred.

In most countries there is some form of internal inspection procedure. Such inspectors have access to all parts of the prisons and also to people within the prison. They should also be permitted to carry out inspections without prior notice to the staff.

External inspections constitute another form of safeguard to ensure prisons are run properly and humanely. Many countries use civilian inspection teams and some of them specialize in certain areas such as health care, buildings, education.

Prisons and prison administrations have considerable control over the lives and the health and safety of the prisoner. International instruments are clear in their consistent statement that human rights safeguards must be an integral part of any prison system and furthermore that the prisoner and the prison staff at all levels must be fully aware of the prisoners fundamental rights. A well functioning prisoner complaint process and the availability of both internal and external prison oversight mechanisms present many challenges.

Most prison legislation provides for a set of written procedures that allow prisoners to register any complaints they have regarding their treatment in prison. When the legislation is silent on these matters, prison policies should specify and fully articulate the required procedures. Prisoners should be given written information about the complaints procedure, prison rules and regulations, as part of an information pack on entry to prison. (see SMR, Article 35(1)). These procedures should be clearly laid out in a way that can be understood both by prisoners and by all staff members.

Information to and Complaints by Prisoners

Standard Minimum Rules for the Treatment of Prisoners

35. (1) Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making

complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution.

(2) If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally.

36. (1) Every prisoner shall have the opportunity each week day of making requests or complaints to the director of the institution or the officer authorized to represent him.

(2) It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present.

(3) Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.

(4) Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.

There must also be a procedure in place through which prisoners can make confidential written complaints to a person or institution independent of the prison administration such as a prison ombudsman, a judge/magistrate, or a civilian oversight body when they feel that the prison administration is failing to respond to their complaints or when they are complaining against a disciplinary decision (see: SMR, Article 36 (3)).

Establishing good decision-making procedures is equally important, accompanied by effective processes for hearing appeals, complaints, allegations and grievances against the decisions made by the prison administration.

Principle 33 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states:

1. A detained or imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.
2. In those cases where neither the detained or imprisoned person nor his counsel has the possibility to exercise his rights under paragraph 1 of the present principle, a member of the family of the detained or imprisoned person or any other person who has knowledge of the case may exercise such rights.
3. Confidentiality concerning the request or complaint shall be maintained if so requested by the complainant.
4. Every request or complaint shall be promptly dealt with and replied to without undue delay. If the request or complaint is rejected or, in case of inordinate delay, the complainant shall be entitled to bring it before a judicial or other authority. Neither the detained or imprisoned person nor any complainant under paragraph 1 of the present principle shall suffer prejudice for making a request or complaint.

Investigation of Torture

The Istanbul Protocol

The Commission on Human Rights in its resolution 2000/43 and the United Nations General Assembly in its resolution 55/89 drew the attention of Governments to the Principles on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment and strongly encouraged Governments to reflect upon the Principles as a useful tool in combating torture.

1. The purposes of effective investigation and documentation of torture and other cruel, inhuman or degrading treatment (hereafter torture or other ill-treatment) include the following:

- (i) Clarification of the facts and establishment and acknowledgment of individual and State responsibility for victims and their families;
- (ii) Identification of measures needed to prevent recurrence;
- (iii) Facilitating prosecution and/or, as appropriate, disciplinary sanctions for those indicated by the investigation as being responsible, and demonstrating the need for full reparation and redress from the State, including fair and adequate financial compensation and provision of the means for medical care and rehabilitation.

2. States shall ensure that complaints and reports of torture or ill-treatment shall be promptly and effectively investigated. Even in the absence of an express complaint, an investigation should be undertaken if there are other indications that torture or ill-treatment might have occurred. The investigators, who shall be independent of the suspected perpetrators and the agency they serve, shall be competent and impartial. They shall have access to, or be empowered to commission, investigations by impartial medical or other experts. The methods used to carry out such investigations shall meet the highest professional standards, and the findings shall be made public.

3. (a) The investigative authority shall have the power and obligation to obtain all the information necessary to the inquiry. The persons conducting the investigation shall have at their disposal all the necessary budgetary and technical resources for effective investigation. They shall also have the authority to oblige all those acting in an official capacity allegedly involved in torture or ill-treatment to appear and testify. The same shall apply to any witness. To this end, the investigative authority shall be entitled to issue summonses to witnesses, including any officials allegedly involved, and to demand the production of evidence.

(b) Alleged victims of torture or ill-treatment, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any other form of intimidation that may arise pursuant to the investigation. Those potentially implicated in torture or ill-treatment shall be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as those conducting the investigation.

4. Alleged victims of torture or ill-treatment and their legal representatives shall be informed of, and have access to, any hearing, as well as to all information relevant to the investigation, and shall be entitled to present other evidence.

5. (a) In cases in which the established investigative procedures are inadequate because of insufficient expertise or suspected bias, or because of the apparent existence of a pattern of abuse, or for other substantial reasons, States shall ensure that investigations are undertaken through an independent commission of inquiry or similar procedure. Members of such a commission shall be chosen for their recognized impartiality, competence and independence as individuals. In particular, they shall be independent of any suspected perpetrators and the institutions or agencies they may serve. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided for under these Principles. Under certain circumstances, professional ethics may require information to be kept confidential. These requirements should be respected.

(b) A written report, made within a reasonable time, shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. On completion, this report shall be made public. It shall also describe in detail specific events that were found to have occurred, the evidence upon which such findings were based, and list the names of witnesses who testified, with the exception of those whose identities have been withheld for their own protection. The State shall, within a reasonable period of time, reply to the report of the investigation and, as appropriate, indicate steps to be taken in response.
6. (a) Medical experts involved in the investigation of torture or ill-treatment should behave at all times in conformity with the highest ethical standards and in particular shall obtain informed consent before any examination is undertaken. The examination must conform to established standards of medical practice. In particular, examinations shall be conducted in private under the control of the medical expert and outside the presence of security agents and other government officials.

(b) The medical expert should promptly prepare an accurate written report. (...)

Secret or unacknowledged detention amounts to a form of “enforced disappearance”. It directly violates various human rights, including the right to liberty and security of the person and the right to recognition as a person before the law. In such case, the new International Convention for the Protection of All Persons against Disappearance (2006) requires States to take the following actions:

Article 12

1. Each State Party shall ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation. Appropriate steps shall be taken, where necessary, to ensure that the complainant, witnesses, relatives of the disappeared person and their defence counsel, as well as persons participating in the investigation, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given.

2. Where there are reasonable grounds for believing that a person has been subjected to enforced disappearance, the authorities referred to in paragraph 1 of this article shall undertake an investigation, even if there has been no formal complaint.
3. Each State Party shall ensure that the authorities referred to in paragraph 1 of this article:
 - (a) Have the necessary powers and resources to conduct the investigation effectively, including access to the documentation and other information relevant to their investigation;
 - (b) Have access, if necessary with the prior authorization of a judicial authority, which shall rule promptly on the matter, to any place of detention or any other place where there are reasonable grounds to believe that the disappeared person may be present.
4. Each State Party shall take the necessary measures to prevent and sanction acts that hinder the conduct of an investigation. It shall ensure in particular that persons suspected of having committed an offence of enforced disappearance are not in a position to influence the progress of an investigation by means of pressure or acts of intimidation or reprisal aimed at the complainant, witnesses, relatives of the disappeared person or their defence counsel, or at persons participating in the investigation.



Activities and discussion topics

The participants, as a group, will be invited during a roundtable discussion to describe the prisoner complaint process in their respective institutions, how these complaints are registered, and how they are typically addressed. They will be invited to give concrete examples of the complaints typically received from prisoners and how they are typically addressed.

During the second part of the exercise, the group will be invited to list the benefits of an external complaint system and to offer suggestions on how such an external process could be implemented in their country.

- To whom (and at what rank) should the prisoner make his complaint? Who should be involved in attempting to resolve the complaint?
- What forms of prisoner complaint should involve an external review? Who should be involved?
- What types of incidents should be investigated and by whom? If reports are completed, who is responsible for responding to them? Are the reports made public? Who is responsible for the follow-up?
- Should there be some form of oversight that is independent of the prison administration? Of the responsible government ministry? Who should this person or entity report to?



Review

The main points to be reviewed will be:

1. The importance of establishing an effective prisoner complaint processes and adopting procedures that are fair and understood by all relevant parties.
2. The importance of internal and external inspections as they relate both to individual prisoners and when required in relation to prison incidents.
3. The relevance of the applicable international standards.
4. Issues identified related to the challenges of enhancing existing prison procedures relating to prisoner complaints and internal investigations.
5. Issues identified relating to the challenges of introducing an external prison inspection system or enhancing the existing system.



16. Overcoming challenges: strategic approaches

Introduction

This last session is one during which the group is invited to engage in a preliminary strategic planning process and come up with a basic strategic plan for addressing the challenges they have identified.

Exercise

1. Based on the various exercises conducted up to this point and on the notes they kept at the end of each session, participants are asked to review, summarize and prioritize the various challenges they have identified in previous sessions. (If an assessment of the prison system has already been conducted and is available, it can be presented to participants or participants can be asked to review it and evaluate it).
2. Participants are invited to conduct a quick environment scan, focusing on factors that can hinder or support their prison reform attempts. They should be asked to do it on their own and list some of the main factors, as they see them (with supporting evidence). After each participant has developed a list, participants should form small groups to compare their lists and to discuss them. That part of the exercise is concluded when, with facilitation, the group as a whole agrees to a list of 10-20 factors that should be kept in mind in the planning exercise (or in the eventual implementation of a strategic plan).
3. Participants are asked to identify a maximum of six medium-term strategic objectives they could agree to pursue over the next five years, and twelve strategic actions they can agree to undertake over the coming year in order to achieve the strategic objectives. This part of the exercise is completed when participants have had a full opportunity to discuss various potential objectives and can come to some kind of agreement about the relative importance (ranking) or the order in which they should be tackled.
4. Participants are invited to reflect on and discuss what they see as the principal difficulties they are expecting to encounter in implementing the proposed strategic actions.

5. Participants can be invited to talk about what action they can take to bring their ideas and the conclusions of their planning exercise to the attention of other decision makers within their country.

Output

A two-page, concise and negotiated statement of strategic objectives and strategic actions that could lead to a major improvement of the prison service.

Annex I. Five-day training course curriculum for prison leaders

Day 1: Module 1—Prison leadership within the context of international human rights standards and the national legal framework	
Morning	Chapter 1: Identification of current challenges
	Chapter 2: Effective leadership
Afternoon	Chapter 3: Human rights, international standards and good prison management
	Chapter 4: Importance of the legal framework, policies and regulations
Day 2: Module 2—Prison leadership within the context of international human rights standards and the national legal framework	
Morning	Chapter 5: Management and accountability
Afternoon	Chapter 6: Management of human and financial resources
	Chapter 7: Management of physical facilities
Day 3: Module 3—Meeting the basic needs of offenders	
Morning	Chapter 8: Meeting the basic needs of prisoners
	Chapter 9: Vulnerable prisoners
Afternoon	Chapter 10: Children and youth in prison

Day 4: Module 4—Managing the prison population and control and discipline within the prison	
Morning	Chapter 11: Managing the prison population
	Chapter 12: Safety and security, control and discipline within prisons
Afternoon	Chapter 13: Conditional release of offenders
Day 5: Module 5—Alternatives to incarceration, oversight mechanisms, and strategic approaches	
Morning	Chapter 14: Alternatives to imprisonment
Afternoon	Chapter 15: Oversight mechanisms
	Chapter 16: Overcoming challenges: strategic approaches



Annex II. List of additional resources

Standards and norms

United Nations Office on Drugs and Crime (2006). *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*
www.unodc.org/unodc/en/justice-and-prison-reform/compendium.html

Assessment tools

United Nations Office on Drugs and Crime (2007). *Criminal Justice Assessment Toolkit*. New York: United Nations.
www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html

Other manuals and handbooks

Coyle, Andrew (2002). *A Human Rights Approach to Prison Management*. London: International Centre for Prison Studies.
www.kcl.ac.uk

United Nations Office on Drugs and Crime (2007). *Handbook on Restorative Justice Programmes*. Criminal Justice Handbook Series, New York: United Nations.
www.unodc.org/unodc/en/justice-and-prison-reform/tools.html

United Nations Office on Drugs and Crime (2008). *Handbook on Prisoner File Management*.
www.unodc.org/unodc/en/justice-and-prison-reform/tools.html

United Nations Office on Drugs and Crime (2008) . *Handbook on Prisoners with Special Needs*.
www.unodc.org/unodc/en/justice-and-prison-reform/tools.html

United Nations Office on Drugs and Crime (2007). *Handbook of basic principles and promising practices on Alternatives to Imprisonment*. Criminal Justice Handbook Series. New York: United Nations.
www.unodc.org/documents/justice-and-prison-reform/cjat_eng/3_Alternatives_Incarceration.pdf

United Nations Office on Drugs and Crime (2008). Handbook on Women in Prisons. www.unodc.org/unodc/en/justice-and-prison-reform/tools.html

Office of the United Nations High Commissioner for Human Rights (2005). Human Rights and Prisons—Manual on Human Rights Training for Prison Officials

International Centre for Criminal Law Reform and Criminal Justice Policy (2001). International Prison Policy Development Instrument. ICCLR: Vancouver.

Penal Reform International (2002). A Model for Good Prison Farm Management in Africa.

Penal Reform International (2005). Human Rights and Prisons—A Manual on Human Rights Training for Prison Officials

Penal Reform International (2006). Human Rights and Health in Prisons: a review of strategy and practice

Penal Reform International (2001). Making Standards Work: an international handbook on good prison practice

Penal Reform International (2003). PRI Training Manual No.1: Human Rights and Vulnerable Prisoners

Specialized tools

UNODC, WHO, UNAIDS (2006). HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings—A Framework for an Effective National Response.

WHO (2004). Effectiveness of Sterile Needle and Syringe Programming in Reducing HIV/AIDS Among Injecting Drug Users.

Other resources

United Nations Office on Drugs and Crime (2007). Afghanistan Female Prisoners and their social reintegration.

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