

Guidance Note 9

Humanising the treatment of prisoners

Summary

- Many of the world's prisons fall far short of the international requirement to treat prisoners with humanity and respect. Some treat prisoners with considerable cruelty and brutality.
- To improve the treatment of prisoners various actions are needed on several levels: for example, moving the administration of the prison system to a different ministry, changing the law, staff training and involving civil society.
- Treating prisoners humanely and putting rehabilitation at the centre requires a cultural change. A rehabilitative regime implies opportunities for educational, work, cultural and religious activities as well as extensive family contact in the most favourable conditions compatible with security. For women prisoners contact with their children is of great importance.
- Reforming the prison disciplinary system is important for human rights compliance, as is introducing a transparent and effective complaints system.
- Small reforms such as setting up libraries or workshops can be effective, as can giving prisoners the opportunity to work for the benefit of disadvantaged people and charities.

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

— *Article Ten, United Nations International Covenant on Civil and Political Rights*

Guidance Notes on Prison Reform

This guidance note is number nine in a series designed to give practical help to those developing and delivering prison reform projects. All the guidance notes:

- are set within the international human rights framework
- apply in a variety of cultural and political environments
- propose solutions that are likely to be sustainable in a variety of socio-economic situations and do not involve a significant increase in resources
- take account of the realities of prison management

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KING'S
College
LONDON
**International Centre
for Prison Studies**

The failure to treat prisoners with humanity and respect

Being sent to prison involves the severe punishment of loss of liberty and all that implies. It should not involve additional punishment, inhuman and degrading treatment and mental or physical deterioration. Article 10 of the International Covenant on Civil and Political Rights requires that prisoners ‘shall be treated with humanity and respect for the inherent dignity of the human person.’

Prisoners in many of the world’s prisons are not being treated with respect for their human dignity. The reasons are various:

- poverty
- prison systems at the end of the line for resources
- hostile attitudes to prisoners by prison staff, the government, and society in general
- a lack of adherence in government generally to the international human rights instruments and the rule of law

In some states the law may allow prison punishments such as being placed in a dark cell, or being given a restricted food allowance. Fetters or shackles may be used for security or as punishment. It may be obligatory for male prisoners’ heads to be shaved. Women who give birth may have their babies taken from them at once. Regulations may call for prisoners to stand facing the wall with their heads bowed when staff or visitors pass by. The law may not permit prisoners to have a radio or read a newspaper. They may even be forbidden to speak except at certain times of the day. The usual environment may be unrelieved grey with no colour to be seen.

Family visits may be allowed only rarely and prisoners may be separated from their families during visits by thick glass or a grille. Such visits may take place in a bleak room divided by two walls with barred sections and a metre of no-man’s-land between the two walls; families stand one side and prisoners on the other; they all shout to be heard through the bars and across the no-man’s-land.

“ Conditions in prisons and other places of detention were harsh and in many cases amounted to cruel, inhuman and degrading treatment. Serious diseases and severe overcrowding were common. In Spanish Town police lock-up 131 prisoners were held in cells originally designed for 46. There were many reports of male rape, particularly of inmates suffering from mental illness... In May over 600 of the 800 prison warders who were suspended for staging an illegal strike in 2000 started a phased return to work. Following their return there were reports of physical abuse of inmates by warders at St. Catherine’s District Prison and Tower Street Correctional Centre, resulting in injuries. Amnesty International, Jamaica country report 2003¹

Changing such treatment requires action at different levels. Staff training is very important (see Guidance Note 8). Demilitarisation and moving the administration of the prison system to a different government ministry can help (see Guidance Note 7). Involving civil society is an important element (see Guidance Note 12). Changing the law and rewriting prison regulations will usually be necessary.

Building a new set of ideas about imprisonment, turning them into policies and disseminating them through parliament, society and the prison system itself is the key to introducing humane treatment of prisoners.

Moving towards more humane treatment

Introducing a system where the treatment of prisoners accords them respect for their dignity requires a deep-seated cultural change.

“*The Deputy Director-General of the Prison Service of England and Wales suggested that...“a basic test of whether a prison is running decently and reasonably is whether or not staff would be happy with their relatives being held there.”*

HM Prison Service, *Annual Report and Accounts 2000-2001*²

The concept of imprisonment has to be seen through different eyes and the notion of ‘rehabilitation’ has to be enshrined at the centre of the prison regime. The human rights instruments make it clear that prison should aim to be rehabilitative and some countries incorporate that concept in their prison law.

“**International Covenant on Civil and Political Rights, Article 10 (3)**
The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.

“**As article 4 of China’s Prison Law provides:** “*A prison... carries out ideological education, cultural education and technical education.*” *That means that a prison does not only ensure the rights of persons but also the right to learning and to education.*

Deng Zhongyuan, *Prisons of learning – human rights in the eye of a prisoner* 2004³

The implication of this is that prison treatment should aim to be pro-social. The way the prison is organised and the way prisoners are treated should emphasise values of responsibility and mutual respect so that prisoners are not unfitted by their spell in prison for life in society afterwards.

“*There are many fine people who work in prisons. I recall the cookery teacher who made sure everyone in her class got to make a Christmas cake to send home to their families... The teacher who taught his play-reading group to love Shakespeare. The young prison officer who treated prisoners with such respect that, when he died suddenly, dozens of inmates in their best striped suits lined the route from the gate to the prison to bow their heads to his hearse...But the fact remains that I’ve never been in a jail where making the prisoners feel good about themselves was a priority.*

Erwin James, *A Life Inside, A Prisoners Notebook* 2003⁴

Activities

One feature of a rehabilitative regime is that there should be activities for prisoners to fill their time which are socially meaningful. These activities should allow prisoners to rehabilitate themselves if they wish and are able to do so, but rehabilitation cannot be imposed from the outside. It does not follow that such activities will of themselves rehabilitate the people who take part in them. Some prisoners come to prison after such damaging childhoods and life experiences that whatever is done in prison cannot undo that damage. Most prisoners leave prison to enter an environment of such gloomy personal prospects that changing their lives is too high an expectation. Some prisoners are not convinced that they want a different way of life.

Thus, the contribution imprisonment can make to rehabilitation when compared with the other elements of a prisoner's life and earlier experience is inevitably limited. Nevertheless the regime and the way the prison is organised and the people in it interact should aim to be 'rehabilitative'.

“ *The prison system should not be a tool of coercion and repression of the individual. It is essential to move away from the ideology on which the former penal system was based. To express this in somewhat more graphic terms, we need to have as little of prison as possible in our prisons.*

Y I Kalinin, *The Russian Penal System: Past, Present and Future* 2002⁵

Many prisoners in the world have access to no activities except listening to the radio, watching television (where this is permitted), reading and playing cards or other forms of gambling. Introducing a variety of more positive activities can improve the daily lives of prisoners and staff and humanise the prison experience. Activities suggested by the international instruments as desirable for prisons are:

- work
- education
- cultural activities
- sport
- opportunities to practise religion

In countries with very scarce resources the emphasis is likely to be on work to meet the daily needs of prison life, such as growing food and making soap or blankets. Education can be an activity that creates discussion and helps to build a sense of community. It is also in the interest of the prison authorities to make sure that prisoners have plenty to do. If prisoners have full and active days, they are less likely to become bored and frustrated and the possibility of violence and unrest can be reduced.

Family contact

Respect for family life is a basic part of treatment with humanity. Ensuring that prisoners can keep contact with their families and the outside world is a major element of humanisation. Yet in many prison systems family contact is a low priority and families as well as prisoners suffer considerable deprivation as a result.

Visiting arrangements vary enormously.

- In most parts of Latin America prisoners can have private visits from their families in their living accommodation for several hours once or twice a week.
- In Russia and other former Soviet countries prisoners may be entitled to a three day visit four times a year with their family in an apartment in a special part of the prison.
- In England and Wales some prisoners are entitled to two visits of about one hour each per month in a large room, watched over by staff and cameras and no private family visits are allowed.

“ *In a men's prison in the Krasnoyarsk Region of Russia a new method of visits had been introduced. Whereas formerly prisoners had most of their visit separated from their visitors by a grille the prison director had established a café with a dozen tables. Visits could take place every two months for up to four hours. The shop/café was sub-contracted to a local business. Technically the Penal Code does not permit such arrangements but efforts were being made to change this.*

ICPS Mission Report 2004

It should be remembered that the right to family life applies also to prisoners' families. They have not been convicted but are separated from their father, mother, brother, sister or child. They are entitled to have as much contact as can reasonably be allowed with their imprisoned family member.

“ Egypt – *The Human Rights Association for the Assistance of Prisoners* received cheerfully the decision of the Minister of Interior of removing the wire barriers between prisoners and their families during visitation that were preventing the direct communication between the prisoner and his family.

Press Release 13 September 2004⁶

Regulation and discipline

All prison systems need rules and methods of enforcing them. It is essential to have a fair disciplinary system which is run according to the rules of natural justice with punishments that are proportionate. Punishments should not include any restriction on diets. All prisoners, even when in solitary confinement, should have one hour's exercise a day and have something to sit on or lie on other than the bare floor. The European Court of Human Rights has made it clear that punishments that extend a prisoner's detention longer than reasonably expected should not be imposed without some judicial involvement in the decision.⁷ Reforming the punishment system to eliminate cruel punishments and introduce due process protections is often a major part of any project to bring prisons into accordance with human rights standards.

Complaints mechanisms

It is essential to have a complaints process which is fair, open and which prisoners can trust. Prisoners should be able to complain without fear that there will be retaliation. Complaints should be able to be made internally and also externally (see Guidance Note 11).

Small projects to improve the treatment of prisoners

Much penal reform activity is directed at humanising prison treatment. Good results can be achieved with small inputs. The donation of old sewing machines can allow a tailoring workshop to function. The provision of books can lead to literacy classes.

“ Together with the Yemen Red Crescent, the ICRC launched a pilot project to provide female detainees in Al-Mahwit central prison with assistance. This project involved regular visits and training in sewing. The ICRC supplied sewing machines, other supplies and incentive payments to the National Society volunteers taking part. The goal was to relieve the isolation of female prisoners through regular visits from female National Society volunteers, and prepare the prisoners for their future return to society by teaching them a skill. The pilot project was considered a success and the ICRC and the National Society planned to set up similar projects in two other central prisons in 2002.

ICRC, *Annual Report 2001*⁸

Establishing prison workshops and getting prisoners to work, or setting up education classes are reforms that can make sense to a public that is sceptical about giving prisoners 'rights' but can see the common sense in rehabilitation programmes.

Work in prison

Work has a long connection with imprisonment. In the southern states of the United States in the late nineteenth and early twentieth century, prisoners were leased out to businesses as captive labour and made money for the prison system.

In the former Soviet Union prisoners were used as forced labour. Prisons were work camps and the prison system was a major economic contributor to the State. With the coming of the market economy this work system collapsed and serious consequences followed for the prisons in those countries. In Soviet times the State had traditionally met the costs of the staff salaries, while the costs of running the prisons had been met from the profits from the prison labour.

Prisoners' work has also been a source of controversy in China where, it has been asserted, prisoners are used to produce goods very cheaply to compete in the market.

How much of the work generally done in prison has any rehabilitative outcome is open to question. In many countries work for prisoners is scarce and prisoners can spend the day in a workshop, making work that should take an hour or two at most last for a whole day. Prison workshops can lie unused for much of the time. In many prison systems prisoners work for the prison administration producing such items as uniforms for prison staff or furniture for government offices.

It is sometimes suggested that prisons can be organised so that they are self-supporting and the upkeep of the prisoners does not fall upon the state. However, no successful experiments in making prisons self-supporting which are within human rights guidelines have so far been reported.

Pay for prisoners

Although prisoners' work is often repetitive and gives them no useful skills it can still benefit them if it is paid. Prison wages can vary from the equivalent of the national minimum wage to an amount that will buy one packet of cigarettes. Working without pay is discouraged by the international instruments.

Providing food

In poor societies there is often a problem providing sufficient food for prisoners. It is usually purchased centrally from private contractors, which can give considerable scope for distribution problems and corruption. Prison farms can make a contribution to solving this problem if they are well run:⁹

- involvement in agricultural activities benefits the prisoners since in some countries many will have been subsistence farmers and will be so again when released
- the food that is produced can alleviate the inadequacy of many prison diets and improve health

“*Penal Reform International organised agricultural development and skills training activities for some 120,000 plus prisoners who are still awaiting trial in Rwanda following the genocide in 1994. The programme assisted with the production of food for prisoners and prison staff, and provided employment for prisoners...Participation grew during the year.*”

In December 1999, an average of 2091 prisoners participated daily in the activities, undertaking agricultural work (over 60 per cent), chicken and pig breeding, carpentry, tailoring, fish farming, brick making...The production from the project was sold on the market and the benefits shared between reinvestment in the activities and the prison service (or the prison directly)...The aim is for the project to become self-sustaining...
Penal Reform International, *Annual Report 1999*¹⁰

Doing work for the benefit of others and for charities has many advantages. It is more meaningful to prisoners than working for the prison authorities or for a commercial contractor. It also helps to build a link between the prison and the community.

Education and other activities

Education can be the basis for many humanising activities such as bringing in outside organisations to meet and teach prisoners. It is important that the type of education that is offered is appropriate and likely to be helpful. Sometimes education is based on the provision of computers and many prisons have successful computer training programmes. Many others however have computer rooms well-equipped with computers that are kept locked and seldom used because of resource and management problems. Where expensive equipment is provided for prisoners (perhaps of a better quality than that to be found in the local school attended by the children of the prison staff) it is desirable to ensure that all those who live and work in the prison have access to the equipment.

Education can add to the humanisation of prison life. It enables prisoners to take on roles such as student or teacher and can lessen the adverse pressures of life in prison. From time to time other ideas emerge about the success of certain programmes in rehabilitating prisoners, such as cognitive behavioural programmes or transcendental meditation. It is wise to be cautious about the transferability of such programmes which depend for their success on particular groups of enthusiasts and can be culturally inappropriate in different settings.

Social reintegration

Prisons are part of civil society (see Guidance Note 7) and they should be integrated as far as possible into civilian structures. This is desirable in itself as it keeps prisons in the public eye and can minimise ill-treatment. Mechanisms and structures which bring outside organisations and agencies into prison to give prisoners a profile in the wider society could well be encouraged.

Creative activities, such as drama and music, are also important in prisons. Many civil society organisations work in prisons to involve prisoners in concerts, plays and drama workshops.

In some countries prisoners' status as citizens is reinforced by the retention of the right to vote. Prisoners do not automatically lose their right to vote in jurisdictions as diverse as Costa Rica, South Africa, Australia and France.

Imprisonment makes prisoners dependent on others for all the basics of life. Few areas of individual decision-making remain. Giving prisoners back some control over their lives and opportunities to make decisions for themselves is seen as a key to reform and

a major component of a more humane prison system. Sometimes prisoner committees are set up, to involve prisoners in deciding on activities and to provide a channel of communication and consultation.

Prisoners with special needs

As sentence lengths increase, prisons find themselves holding more elderly prisoners. Physically disabled people and those suffering from addictions are also held in some numbers. Providing special facilities for these prisoners can ease what can be for them a specially cruel experience. Many prisons make separate arrangements for the old and infirm so that they are sheltered from the hurly-burly of prison life.

“ One prison in Chile converted the punishment block into three units for vulnerable prisoners, one for over 60's, one for disabled people and one for drug addicts.

ICPS Mission Report 2000

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