

## Guidance Note 2

# Getting started – doing a pre-project needs assessment

### Summary

- Needs assessments can establish whether a project is viable and whether it will be given enough local support.
- To ensure credibility for an intervention, needs assessments should take local priorities as the starting point and should lead to action.
- Those undertaking needs assessments should inform themselves before arrival about the human rights situation in the country and in the prisons, and obtain basic information on the criminal justice system.
- In the country information should be assembled on the legal framework, the prison population, the public service employment framework, the budget, the level of political and civil society support and possible risks.
- Prison visits should be undertaken, during which assessments should be made of the relationships between staff and prison management and between staff and prisoners, capacity of the staff, openness of the prison administration to outside influences and potential of the buildings.
- Ways of ensuring sustainability should be assessed before a commitment is made.

“ 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 two 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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## The needs assessment process

Many prison reform projects begin with a visit to assess the viability of an intervention and to make recommendations to the host government and to the funder. Such visits are useful to:

- establish whether the political climate is conducive to a prison reform programme of any sort
- establish the level of actual support for reform
- assess the potential for generating and keeping support in the longer term
- identify the people who might be key players in reform projects or in activities aimed at building a climate favourable to reform
- establish how far the priorities of the host country and the funder are compatible and can lead to a realistic project
- produce proposals for prison reform activities

## Credibility

Donor agencies may sometimes commission needs assessments that, when produced, read well but lead to no further action. Some needs assessments may lead to proposals for activities that seem to the country hosting the project to be quite marginal to their current problems and crises. When a needs assessment is followed, for example, by a proposal for a one-week training seminar and a study visit to a Western country for the top officials, or a computerisation of the prison records, the local prison administration may feel that the real problems they face every day such as failures of the water system, shortage of medicines, deep-seated corruption or a culture of violence are not being addressed.

“ São Paulo’s State Secretary of Prison Administration invites directors from over 80 prisons to a meeting at the Secretariat in the centre of the city of São Paulo. The State is the size of Spain, and many of these directors have come from the borders in journeys of over 8 hours. The past month has been particularly turbulent, since the ‘mega rebellion’ on 18 February which involved 27,000 prisoners in 25 jails in 22 towns across the State. 19 people were killed and over 7,000 taken hostage, including 2,250 civilians inside the prisons for family visits. The First Commando of the Capital [PCC] were blamed for the outbreaks, but the ease with which the prisoners had organised and co-ordinated the riots demonstrated the self-evident corruption of prison staff that allowed inmates to have access to cellular phones. The prison directors, already facing the everyday challenges of running under-resourced and over-crowded prisons, now feel themselves at war with the organised gangs that have taken hold within the prison system.

People’s Palace Productions, *Staging Human Rights* 2002<sup>1</sup>

Arriving for the visit well equipped with information about the country and the prison system as well as a willingness to listen to the prison staff’s analysis of their own problems and suggested solutions also heightens credibility.

“ Assistance projects that are funded, designed, managed and evaluated by foreigners are only occasionally backed by much real commitment or attachment from people in the recipient countries themselves.

Thomas Carothers, *Aiding Democracy Abroad* 1999<sup>2</sup>

## Information that should be collated before the visit

A wide range of information about the prison systems of the world is easily and publicly available and a background brief on the country to be visited can be collated prior to the assessment visit.

### The human rights situation in the prisons

The annual human rights reports of the US State Department ([www.state.gov](http://www.state.gov)) and Amnesty International ([www.amnesty.org](http://www.amnesty.org)) cover all countries and have information on prisons where it is available and on the levels of human rights observance more generally. The International Helsinki Federation ([www.ihf-hr.org](http://www.ihf-hr.org)) and Human Rights Watch ([www.hrw.org](http://www.hrw.org)) produce reports on prison conditions in specific countries from time to time. The reports from Human Rights Watch are closely referenced to the international human rights instruments. The UK Foreign and Commonwealth Office produces an annual human rights report ([www.fco.gov.uk](http://www.fco.gov.uk)).

For the 46 countries in the Council of Europe, the reports of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ([www.cpt.coe.int](http://www.cpt.coe.int)) offer very detailed information. They cover the basic structure of the system in countries being visited, general failures and a wealth of detail on the specific prisons visited by the delegation as well as useful background information on police treatment of suspects.

The Health in Prisons Project of the World Health Organisation (Europe), which has 28 states in membership, has information on prison health delivery in some countries ([www.hipp-europe.org](http://www.hipp-europe.org)).

### Basic facts about the prison system and the use of imprisonment

The Home Office (England and Wales) produces a World Prison Population List ([www.homeoffice.gov.uk/rds](http://www.homeoffice.gov.uk/rds)) giving comparative information on prison populations and rates in all countries of the world with a regional analysis. The International Centre for Prison Studies ([www.prisonstudies.org](http://www.prisonstudies.org)) provides information on its World Prison Brief on prison systems worldwide giving a breakdown of the prison population, details of the prison system and comparative data on the use of imprisonment. It also has tables giving the highest and lowest of prison population totals, prison population rates, occupancy rates and percentages of pre-trial detainees, female prisoners and foreign prisoners.

Many national ministries and prison administrations have their own websites that describe their prison systems in detail. Most of them can be found via World Prison Brief. Prisoners Abroad ([www.prisonersabroad.org.uk](http://www.prisonersabroad.org.uk)) is a UK charity providing information, advice and support to British citizens detained overseas, their family and friends, and to released prisoners trying to re-establish themselves in the UK.

### Information on levels of corruption

Specific information on corruption in prison systems is not easily available but Transparency International ([www.transparency.org](http://www.transparency.org)) gives a general picture on the likelihood of corruption in a particular country and the level of corruption in the prison system can be deduced from the level of corruption recorded for the country generally. The *Global Corruption Report* and the *Corruption Perceptions Index* are useful sources of information on corruption.

## Current issues

Press reports on recent prison issues that have been covered in the media give a good idea of current developments. Some countries have English newspapers such as the Japan Times or the Moscow Times. The BBC news website ([www.bbc.co.uk/news](http://www.bbc.co.uk/news)) is a good source of current information.

## Other interventions by international players

The responsible authorities hosting the needs assessment may not feel it is in their interests to give full information on other international and donor agencies and their plans for prison reform. Alternatively, they may not know the full picture. To avoid conflict or duplication such information should be sought. The organisations most likely to be involved are:

- **United Nations:** including the Office of the United Nations High Commissioner for Human Rights (UNHCHR), the United Nations Development Programme (UNDP), the United Nations Children's Fund (UNICEF) and the United Nations Latin American Institute for Crime Prevention and Treatment of Offenders (ILANUD)
- **European Bodies:** the Council of Europe, the Organisation for Security and Co-operation in Europe, the European Union
- **other international:** the International Committee of the Red Cross, the Raoul Wallenberg Institute (Sweden)
- **American bodies:** the Organisation of American States (OAS), the Inter-American Commission on Human Rights
- **African bodies:** the African Commission on Human and Peoples' Rights
- **government international aid departments:** many governments have international aid departments. They usually have websites which give information about the projects they support, for example [www.usaid.gov](http://www.usaid.gov), [www.dfid.gov.uk](http://www.dfid.gov.uk), [www.ausaid.gov.au](http://www.ausaid.gov.au), [www.acdi-cida.gc.ca](http://www.acdi-cida.gc.ca), [www.sida.se](http://www.sida.se), [www.danida.dk](http://www.danida.dk)

## The needs assessment in country

### Collecting information on the legal framework

The number of people in prison, their status and the way the prison is run will be closely related to the legal framework. Information will be needed on the type of legal system, how detailed the laws are and how much discretion is allowed to various authorities.

#### The criminal procedure law

The law on criminal procedure is important for prisons because it lays down:

- who makes the decision to commit to pre-trial detention
- how long pre-trial detention can last
- whether the prison authorities have any power to ask the court to release pre-trial detainees
- under what conditions pre-trial prisoners should be held

The criminal procedure law can have an important effect on the size of the prison population and the way pre-trial prisoners are treated.

Reforms that seem obvious, for example, that prisoners in pre-trial detention should be allowed out of their overcrowded cells into the wide prison corridors to take part in communal activities or that they shall be allowed to communicate with their families,

may be beyond the power of the prison authorities to implement if the prosecutors have the right to prescribe who prisoners may communicate with.

### **Sentencing information**

Few sensible proposals can be made about reforming a prison system without an understanding of the characteristics and breakdown of the prison population. If the prisons are holding a high number of low level offenders and fine defaulters who present no security risk the reform solution will be different from what is needed if the prisons are holding many members of organised crime syndicates and those convicted of serious violent offences.

Basic information about the sentencing framework is needed to establish whether courts have a range of sentencing options or whether most of those convicted receive a prison term or a fine, and how many of those fined fail to pay and serve a prison term in default. The information needed will indicate:

- what proportion of prisoners is being held pre-trial
- what proportion of the prison population has been convicted of a serious and/or violent offence
- how many are imprisoned for fine default
- how long are the prison terms being served

On the basis of such information a view can be formed of the level of security needed and the appropriate level and type of staffing.

### **Prison law and regulations**

Often the prison law and regulations will be very out of date, sometimes dating back to colonial times, and barely observed in practice. Many prison staff might never have seen or read the law and regulations. In other countries the system will be entirely law-bound and personnel will use the law as guidance for their everyday decisions. In these circumstances simple reforms might require changes to the law or at least the issuing of a decree. No project can be developed or designed without an understanding of the place of the law in the current way of working of the prison administration.

## **Collecting information on the administrative and financial framework**

### **Recruitment and employment in the public services**

The level and quality of prison personnel and their conditions of employment will be influenced by the structure of public services. Information on the rules governing the public services, the standards required, recruitment and promotion practices is essential in order to understand the possibilities of reform and the barriers to it. It is important to assess how strong the public service ethos is. In many low and middle-income countries, prison services have traditions of public service which can form a good basis for positive development.

In many countries prison systems are not part of the civilian public services but are run as part of the military or the police (see Guidance Note 7).

### **Budgetary and financial information**

Prison systems in almost every part of the world face resource problems. Budgets are inadequate or not actually fulfilled by central government. Often prison budgets are subsumed in a much larger ministerial budget. It is important, but often very difficult, to establish how much the prison system costs, whether there is any money for reforms and who ultimately makes spending decisions.

## Collecting information on the political and civil society background

When a request for help with prison reform is received, it is worth assessing where the impetus for this request came from. Is it prompted by a wish to avoid international criticism or a desire for acceptance by some international body such as the Council of Europe or the European Union? Is there a new government or a new Minister responsible for the prison system? Is the government responding to parliamentary, civil society or media pressure? Has there been a scandal, such as a high profile escape, a riot or the outbreak of an infectious disease?

How genuine is the request and where will the support come from for a prison reform programme? Is there a political party or group in parliament likely to look positively on prison reform?

“ Finally, when faced with disappointing health and education outcomes, especially for poor people, it is tempting to recommend a technical solution that addresses the proximate cause of the problem. Why not give Vitamin A supplements, de-worm schoolchildren, and train teachers better? Why not develop a “minimum package” of health interventions for everybody? Although each intervention is valuable, recommending them alone will not address the fundamental institutional problems that precluded their adoption in the first place. Lack of knowledge about the right technical solution is probably not the binding constraint. What is needed is a set of institutional arrangements that will give policymakers, providers and citizens the incentives to adopt the solution and adapt it to local conditions.

World Bank, *World Development Report 2004*<sup>3</sup>

In many countries civil society groups are the main proponents of change and also a prime source of information about the prison system and its actual way of operating.

Faith based groups often have access to prisons and individual prisoners on a long-term basis and can be a good source of information on what the prisons are really like for those living and working in them. These groups may be able to counter any excessively rosy picture of the prison system’s operations that prison authorities understandably would like foreign visitors to have. Talking to members of prisoners’ families can be very informative.

“ In authoritarian and semi-authoritarian systems, support for human rights and democracy is only possible if there are channels, or “niches” of entry.

OECD, *Evaluation of programmes promoting participatory development and good governance 1997*<sup>4</sup>

It is also important to establish whether there are any powerful forces opposed to reform, to identify those which exist and to assess why they are opposed and what might help them to change their stance. An assessment should be made of the media and how hostile or open-minded it is likely to be.

“ Short-term assessment teams may, for example, be able to identify which of the major state institutions have the most glaring flaws and what improvements are most needed. Often they are not able, however, to learn much about how amenable the key people in those institutions really are to an aid project, who is likely to oppose reforms and how they will do so, and what actually happened with previous reform efforts.

Thomas Carothers, *Aiding Democracy Abroad 1999*<sup>5</sup>

## Assessing the prison system

It is important to know something about the history of the prison system and its roots. Is it a colonial legacy, based originally on the system of a colonial power such as Britain, Portugal, France or Spain? Does it come from a military tradition which regarded prisons as part of the control by a military dictatorship? Or were prisons traditionally linked to the police and prosecuting authorities? How open is it to outsiders?

Visits should be made to a range of prisons, including pre-trial, sentenced, high-security, those for women and young people. It is important that these visits should not just be a form of tourism, going only to parts of the prison where the authorities direct. Discussions with personnel at all levels and with prisoners should be organised. An attempt should be made to assess the quality of the relationships between staff and prisoners. Indicators could be:

- is a private discussion with prisoners permitted?
- how freely do prisoners speak when they are gathered together for a discussion? Do they all seem able to speak or has a spokesperson already been chosen who answers all the questions?
- do prison staff know any prisoners by name and do prisoners willingly enter into discussions with them?

An effort should be made to assess the proportion of prisoners from minority ethnic, cultural or religious groups, and also the number of those exhibiting mental illness or other characteristics which would constitute special vulnerability.

Many prison systems will have policies, plans, programmes and projects for reform, often unfulfilled. It may well be that previous needs assessments have been carried out and their recommendations have simply been filed. It is useful to ask what are the current plans and programmes and why are they finding difficulty in carrying them out. Officials in the prison system may have particular reforms that they have wanted to implement for years but have not been able to do so. Finding out what these are and building a reform programme on these, if they are practical, may help to secure local ownership of the project.

“ No externally conceived and imposed programme of assistance could ever hope to take root, effect meaningful change, or remain sustainable after the departure of the aid provider. For this reason alone, it is essential to take due account of – indeed direction from – the perspective of the beneficiaries. To do so is a point of principle but also is an important practical requirement for successful human rights assistance. This is the central reason for putting the beneficiary perspective near the heart of any analysis of such programmes.

International Council for Human Rights Policy,  
*Local Perspectives: Foreign Aid to the Justice Sector 2000*<sup>6</sup>

## Managing risks

All prison reform projects carry the risk of failure. Failure can result from poor initial assessment of the problems, a change of government, a change of senior personnel in the prison administration and a consequent change of view about priorities or human rights observance. Prison reform can become very difficult if there is a spectacular incident such as a mass breakout or the killing of a prison guard that could be attributed to a movement that gave prisoners more rights. However, a well-prepared

project should be able to build in the possibility of setbacks and be flexible enough to cope with the need to reformulate plans.

## Looking for low-cost solutions

In most circumstances substantial financial investment is unlikely to be available. Low-cost solutions should be sought. This can be done in a number of ways:

- assessing the resources available in the current buildings, such as the space that could be used for growing food for prisoners and staff
- identifying civil society organisations or other government organisations that might be prepared to provide some help to the prisons
- considering the potential for staff to be more than guards and instead to become involved in a wide variety of activities with prisoners, using prisoners' skills wherever possible

## Looking for sustainability

The pillars of sustainability are:

- a long term commitment to human rights observance by government
- mechanisms in law, parliament and civil society that continue to monitor and report on observance

A needs assessment should measure the strength of these pillars of sustainability and also build into the design for a future project measures to support and develop this long-term machinery.

## References

- 1 People's Palace Productions, *Staging Human Rights 1: Interim Report*, Queen Mary, University of London, May 2002
- 2 Thomas Carothers, *Aiding Democracy Abroad, The Learning Curve*, Carnegie Endowment, 1999, p.260
- 3 *World Development Report 2004: Making Services Work for Poor People*, World Bank, 2004, pp.11-12
- 4 *Evaluation of programmes promoting participatory development and good governance*, Organisation for Economic Co-operation and Development, 1997
- 5 Thomas Carothers, *Aiding Democracy Abroad, The Learning Curve*, Carnegie Endowment, 1999, p.262
- 6 *Local perspectives: foreign aid to the justice sector*, International Council on Human Rights Policy, 2000, p.9