

**Strengthening the management, operation and  
oversight  
of Reform and Rehabilitation Centres administered  
by the Palestinian Authority.**

# **MANUAL FOR TRAINERS**

**Module 1  
ENSURING HUMAN RIGHTS IN PRISONS**

**January 2010**

# **Module 1**

## **ENSURING HUMAN RIGHTS IN PRISONS**

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## **ACKNOWLEDGEMENTS**

This training manual was produced as part of the project on 'Strengthening the management, operation and oversight of Reform and Rehabilitation Centres administered by the Palestinian Authority'.

Dr. Shane Bryans, an international prison expert, prepared it for the United Nations Office on Drugs and Crime (UNODC). It is based on various UN and other publications, details of which are included in Chapter 9.

UNODC wishes to acknowledge the support provided by the Government of Canada toward the development of the training manual.



## Chapter 2

### **HOW TO USE THIS MANUAL**

#### **Introduction and approach**

This trainers' manual has been designed to give you the core materials that you will need to deliver a five day training course on *Ensuring Human Rights in Prisons*.

This Human Rights training is based on clearly articulated objectives. Your objectives, as the trainer, should facilitate satisfaction of the needs of the participants. Three basic objectives for the trainers form the foundation of such programmes and mirror the following needs of the participants:

- To receive information and knowledge on what human rights and humanitarian standards are and what they mean for the work of the participants in their jobs;
- To acquire or reinforce skills, so that the functions and duties of the participants can be fulfilled effectively with due respect for human rights. Simple knowledge of standards is not enough to enable participants to transfer these rules into appropriate professional behaviour. The acquisition of skills should be viewed as a process whereby skills are fine-tuned through discussion, practice and application;
- To become sensitized, that is, to change negative attitudes or reinforce positive attitudes and behaviour, so that the participants accept, or continue to accept, the need to promote and protect human rights through their work, and actually do so in the course of their duties.

Thus, to be effective, your training should be aimed at improving knowledge, skills and attitudes in order to contribute to appropriate professional behaviour.

In order to achieve this, the approach adopted in the manual is based on a range of interactive pedagogical techniques. The training methodology adopted in the manual is interactive, flexible, relevant and varied.

Interactive – This programme implies the use of a participatory, interactive training methodology. Adult trainees most readily absorb human rights course material when they are not 'spoon-fed' the information. Rather, for effective training, they should be fully involved in the process. As practitioners, the participants will bring to the course a rich pool of experience, which must be actively drawn on to make an interesting and effective course.

Flexible – Contrary to certain myths associated with adult training, it is not advisable to adopt a “military” approach, in an attempt to force participants to participate. The result of such techniques is, more often than not, resentment among participants and, consequently, the closing of effective avenues of communication between trainer and participants. While a certain level of control must be maintained by the trainer, the first rule should be flexibility. Questions – even challenges – from the audience should be welcomed, and should be addressed by trainers in a positive and forthright manner.

Relevant – The unspoken question of the participants throughout the course will be: “What does this have to do with my daily work?” The extent to which the trainer continuously answers this question will be an important measure of his or her success. Every effort must therefore be made to ensure that all material presented is relevant to the work of the audience, and that such relevance is made clear where it is not self-evident. This task may be easier when operational themes are being addressed. It may require more careful preparation, however, with respect to more topical themes, such as the protection of especially vulnerable groups.

Varied – To secure and retain the active commitment of participants, it is best to vary the teaching techniques used throughout the course. Most adults are not accustomed to long classroom sessions, and a tedious and monotonous routine will leave them more conscious of the classroom than of the subject matter. A varied selection of techniques is used in the manual, alternating presentation/lectures, brainstorming, discussions, and small group work.

The following approaches are adopted:

Presentation of standards: A presentation on the human rights standards relevant to a given aspect of the work of prisons, and on how such standards can be effectively applied by the participants;

Application of participatory techniques: Enables participants to use their knowledge and experience to translate into practice the ideas and concepts referred to in the presentation; and also enables them to consider the practical implications of human rights standards for their day-to-day work;

Focus and flexibility: Enables participants to focus on matters of real and current concern; and enables trainers to adapt to participants’ needs as the training programme progresses.

### **Chapter 3**

Chapter 3 provides a summary of basic training techniques. These techniques will be familiar to you from the Training of Trainers workshops that you have participated in. The chapter is aimed at refreshing your memory on some of

the key points covered in those workshops. The chapter covers: adult learning theory; delivering presentations; facilitation skills; and timekeeping. You should read through chapter 3 before delivering a training programme so that the key points are fresh in your memory.

Chapter 3 also provides some checklists of things that you, as the trainer, need to do before, during and after the training sessions.

## **Chapter 4**

Chapter 4 sets out the outline programme for the 5 day training course. The starting and finishing times for each day are identified in the programme, as are the times for breaks and lunch. You will need to carefully manage the timing of each session to ensure that you adhere as closely as possible to the programme.

You will need to agree who will be the lead trainer for each session and what activities will be undertaken by the support trainer.

All days (except the first) begin with a 30 minute Review of the previous day's learning. You can either summarise the key points covered the previous day yourself or ask a participant to do so. Use the remaining time to invite other participants to ask questions and raise any issues which were not clear.

## **Chapter 5**

Chapter 5 contains the speaking notes and Power Point slides for each of the 14 sessions (session 15 does not require speaking notes as it is self explanatory). Each session has been given a number (from 1 to 15) in order to assist you to keep track on session material.

### Speaking Notes

The speaking notes provide a basic structure, yet, they also allow you 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 issues as they emerge.

All the speaking notes have been structured in a similar way.

### Slides

The notes specify when a slide should be shown and the text that will be on the slide. For example:

*Slide 5 - Universal Declaration of Human Rights*

*'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.'* (Article 5)

You may want to read out some of the shorter slides but ask participants to read other longer slides.

### Title

Each session begins by identifying the session number and title of the session. The first slide for each session is the Title slide and gives the title of the session and should be put on screen before participants arrive.

### Duration

The duration of the session is then set out. The duration of the training session reflects the time available in the programme. Some sessions are scheduled to last 1 hour, others 2 hours. The difference in duration reflects the amount of material provided.

### Purpose

The purpose of the session is described in order to focus participants on why the session is taking place.

### Key points

This is followed by the key points that will be covered in the session, which are shown on slide 2.

### Presentation notes

The text is intended to guide the trainer through the session and ensure that all relevant topics are covered. The text is intended as a guide and not as a book that should be read out.

You may want to read out some of the text during the session, until you are completely familiar with the material, or where the points to be made are complex. You should, however, avoid reading out all the text as this will become monotonous for participants.

### Discussion points

A number of 'discussion points' are set out in text boxes at various points in the session. These discussion points will help to break up the session and will encourage participants to engage in a dialogue with the trainer. Informal discussions are useful to clarify points and facilitate the process of translating ideas into practice. Such discussions are conducted by the trainer, who should try to involve all participants.

You do not have to use all discussion points. You can also add discussion points or follow up questions of your own. Discussion points are a good way to manage the time (see Chapter 3).

Where there is a clear and unambiguous answer to the question in the discussion point, this is given in the text below the text box. Where there is no 'one right answer' no answer is needed.

### Small Group Activity

The last part of each session is a Small Group Activity. The questions are in the same format, asking participants:

1. *What do the relevant provisions in the Law of Reform and Rehabilitation Centres have to say in relation to the following [topics covered in the session]:*
  
2. *Do you think that there are any differences when compared to the International Standards and Norms – both higher level of provision and shortfalls?*
  
3. *Are the provisions in the law fully and effectively implemented? If not, what could be done to ensure compliance?*

The activity has been structured in this way to ensure that the participants are familiar with the Palestinian Law and the international instruments covered in the session. It also makes them consider how both should be applied in their prisons.

You will need to decide:

- how many groups to divide the participants into and who should be a member of which group. As the week progresses you may wish to move people into different groups so as to change the interactions.
  
- how long to allow for the activity and for feedback. This will depend on how much time is left until the end of the session.

You should move between groups during the small group activity to provide clarification of the task, answer questions and ensure that the groups are working effectively.

The groups are then reconvened and the results of the deliberations of each group are presented to the full class by a spokesperson for the group. You can ask all groups to present on all three questions or some variation thereof. The course participants can then discuss the topics and the response of each group.

### Use of other training aids

You may also want to make use of flipcharts during your session. These can be used to:

- capture key points during your presentation
- note issues raised during the discussion points
- focus participants on a subject or issue

## **Chapter 6**

Chapter 6 contains a copy of the Handouts that the participants should be given at the end of Session 1. They contain the core reference material that you will be referring to in the training programme and the material that participants will need to undertake the small group activity.

You should ensure that you have sufficient copies to give each participant a set of handouts.

## **Chapter 7**

Chapter 7 consists of the End of Course Evaluation Form. You should ensure that you have sufficient copies to give each participant one. The forms should be distributed at the end of Session 14.

## **Chapter 8**

Chapter 8 provides a model Certificate for participants. You should arrange for a certificate to be produced for each participant. You must ensure that the name of each participant is correctly spelled on the certificate. The certificates will be distributed in Session 15. Where possible, these should be handed out by the director of the prison or a more senior officer from GARRC.

## **Chapter 9**

Chapter 9 lists various source and reference documents. These documents were used in writing this manual and provide more detail and background on the subjects covered. A number of the documents are available in English on the internet from the UNODC website ([www.unodc.org](http://www.unodc.org)).

## Chapter 3

### **BASIC TRAINING TECHNIQUES**

#### **Adult Learning:**

A key aspect of being an effective trainer involves understanding how adults learn best. Compared to children and teenagers, adults have special needs and requirements as learners. Adult learners have the following characteristics:

- Adults are **autonomous** and **self-directed**. They need to be free to direct themselves.

*The application here is that trainers must actively involve participants in the learning process, and serve as facilitators for them. Specifically, they must enable participants to participate in discussion, group work and other activities.*

*They should allow the participants to assume responsibility for presentations and group leadership. They have to be sure to act as facilitators, guiding participants to their own knowledge rather than supplying them with facts. Finally, they must show how the training will help them reach their personal development objectives.*

- Adults have accumulated a foundation of **life experiences** and **knowledge** that may include work-related activities, family responsibilities, and previous education. They need to connect learning to this knowledge/experience base.

*To help them do so, trainers should draw out participants' experience and knowledge, both prison related and more widely, which is relevant to the topic.*

*They must relate theories and concepts to the participants and recognise the value of experience in learning.*

- Adults are **goal-oriented**, usually knowing what goal they want to attain. They, therefore, appreciate a training program that is organised and has clearly defined elements.

*Trainers must show participants how the training will help them attain their goals.*

- Adults are **relevancy-oriented**. They must see a reason for learning something. Learning has to be applicable to their work or other responsibilities to be of value to them.

*Therefore, trainers must identify objectives for adult participants before the course begins.*

*This means, also, that theories and concepts must be related to a setting familiar to participants. This need can be fulfilled by letting participants relate what they are learning to real life situations in their prisons.*

- Adults are **practical**, focusing on the aspects of a lesson most useful to them in their work. They may not be interested in knowledge for its own sake.

*Trainers must work with participants to explicitly identify how the sessions will be useful to them on the job when they are back in their prisons*

- As with all learners, adults need to be shown **respect**.

*Trainers must acknowledge the wealth of experiences that participants bring to the training. The participants should be treated as equals in experience and knowledge and allowed to voice their opinions freely in training. Trainers should avoid hierarchy based on rank during the training.*

It is also important to remember that adult learners are **widely diverse**. Adults differ from each other in experience, ability and background. Yet adults also differ from each other in their preferred style of learning. Individuals acquire information and learn from it in a variety of ways.

To make best use of this manual, the trainer needs to take into account these needs of adult learners to be both an effective presenter and facilitator.

### **Presentation:**

The trainer will first and foremost need to present the information. It is easier for participants to learn when the presentation is good, and for it to be good it needs to be well prepared. Thus, **preparation for the presentation is essential**. The trainer needs to study the material and lecture notes in advance. The timing of the session should be noted, and the subject matter prioritised – be sure to pay attention to the key points. **Practise the presentation**, until it can be delivered confidently within the time limit.

Another way for the presentation to be good is through its delivery:

**Speak clearly.** Do not shout or whisper, and judge the acoustics of the room. Try not to speak in a monotone voice, and it is always better to be too loud than too quiet. Be natural – although not conversational. Deliberately pause in key places. This has the effect of emphasising the importance of a particular point you are making. It is also useful to change the style of delivery to arouse interest. For example, speed or pitch of voice could be altered.

**Look at the audience** as much as possible, but do not fix on an individual – it can be intimidating! Pitch the presentation to the back of the audience, especially in larger rooms.

**Body language** is as important as voice. The body communicates different impressions to the audience. Participants not only listen to the trainer, they watch too. Throughout a presentation the presenter should display:

- **Eye Contact:** This helps to regulate the flow of communication. It signals interest in others and increases the presenter's credibility. Those who make eye contact open the flow of communication and convey interest, concern, warmth and credibility.
- **Facial Expressions:** Smiling is a powerful cue that transmits happiness, friendliness, warmth and liking. So, if a presenter smiles often they will be perceived in this way. Those participants more comfortable with the trainer will want to listen more.
- **Gestures:** A failure to gesture while speaking could be perceived as boring and stiff. A lively style captures attention, makes the material more interesting, and facilitates understanding.
- **Posture:** Standing tall and leaning forward communicates someone who is approachable, receptive and friendly. Speaking with a back turned, or looking at the floor or ceiling should be avoided as it communicates a disinterest. Also, a good posture assists speaking more clearly and effectively.

Following on from body language, **appearance is crucial**. A trainer must project a professional image. The dress standards of the trainer should not fall below those of participants and should respect their cultural and social rules.

The **slides should be integrated**, and help to vary the texture. They are there to make the presentation more intelligible, interesting, vivid and memorable. Research has shown that we take in information in the following proportions:

- 75% through our eyes
- 13% through our ears
- 12% through other senses

For that reason the visual aid of the slides are important – participants grasp the information faster, understand it better, and retain it longer.

### **Facilitation:**

It is during the group discussion aspects that the trainers facilitation skills are most needed.

Facilitation is being able to draw maximum engagement and performance from individuals and groups. They are essential for anyone trying to guide a group of people through a process of learning that encourages all members of the group to participate.

Each person has a unique viewpoint and valuable knowledge to share. Without their contribution, the groups' ability to understand or respond to a situation is reduced. Facilitation is about **empowering others**. It involves letting go of control over the outcome of a process and giving that responsibility to the group.

Good facilitation can produce the following benefits:

- The group is more focused and productive, with better overall communication.
- Everyone involved has a chance to contribute, and feels they are an integral part of the team.
- The people in the group realise and respect that the responsibility for implementing decisions lies with everyone.
- People are encouraged to think and act for the overall benefit of the group.
- High quality decisions are made.
- Negative attitudes, low morale, low involvement, and withholding of information are all less likely because everyone is involved in a joint process.

First of all, it is important to **create an environment in which everyone feels able to participate**.

A good facilitator will monitor who is contributing and who is not, encouraging everyone to participate while remembering that individuals participate in different ways. Some people may feel more comfortable talking in small groups, rather than to the group as a whole.

At times it may be necessary to interrupt someone who is taking too long to make a point.

Facilitators need specific verbal skills:

### 1. Question asking

Facilitators use questions to help group members bring out relevant information, clarify points of view, summarise information, and draw conclusions. The types of questions that are particularly useful are:

- Open ended questions: *Can you give some examples of...?*
- Probing questions: *Will you explain a little more about that?*

- Questions that move on to other group members: *Who has other ideas about this?*
- Questions that encourage other views: *Can anyone provide another view on this?*
- Questions that lead to Summaries: *Will someone summarise the points presented so far?*

## 2. Paraphrasing

By paraphrasing, the facilitator demonstrates that they understand what participants have said and may clarify issues. The process of paraphrasing is much like catching a ball and throwing it back. It also requires very careful listening. A paraphrase starter is something like:

*What I heard you say was ... Is that correct?*

## 3. Summarising

The purpose of summarising is to pull important information together, establish a basis for further discussion or to make a transition. It is also used to review progress or to check for clarity or agreement.

Summarising requires careful listening as it requires organisation and reporting back of information expressed. Summarised information ensures that everyone is clear about what emerged in that portion of the discussion.

Whenever possible, encourage someone in the group to do the summarising. Some summarising phrases could be things like:

- *I think we agree that...*
- *What we are saying is that we...*
- *We seem to have covered the following..*
- *If I understand, the shared view is that...*

The participants should also use the written material provided. For example, they could be made to look up relevant international standards in the *UN Standard Minimum Rules for the Treatment of Prisoners* and read them to the group. Materials which are not opened during the course are likely never to be opened.

It is important to **recap and summarise** what has happened in the discussions, and help the group **make connections between the sessions**.

Bring the group back to the issues they should be focusing on if they get sidetracked onto other issues.

#### 4. Feedback and responding to questions asked

The final considerations regarding group discussions are to encourage feedback and follow up on concerns.

If questions arise that a trainer is not able to answer, the trainer could ask the participants for their view, or consult the material (by having a participant look it up), or offer to provide the answer later – being sure to follow up as promised.

### **Role of the Trainer - Before the course**

1. You will need to arrive in the training room before the participants in order to have time to do some preparation including:

- Arranging seating in the room ('U' shape or small tables)
- Deciding on any seating plan (who will sit where)
- Loading the Power Point slides onto the computer
- Sorting handouts ready for distribution
- Checking equipment
- Ensuring sufficient materials are available (flip charts, pens, paper)
- Lighting and ventilation of the room
- Name tags for participants

2. The level of physical comfort of course participants will have a direct impact on the outcome of the learning exercise. For planning purposes, keep in mind the following basic factors:

- It should be possible to regulate the temperature and ventilation of the room;
- Classrooms should never be filled beyond a comfortable capacity;
- Restrooms should be easily accessible;
- Allow participants occasionally to stand and stretch between scheduled breaks. A two- or three-minute break is sufficient for this, at appropriate intervals;

- Where possible, provide for water, coffee or juice to be available in the classroom.

3. Agree the training roles and who will do what;

4. Study the training material, giving particular attention to the sessions to which you are formally assigned;

5. Prepare any additional brief lecture notes, keeping in mind the time limitations set out in the course programme;

6. Think about what practical examples that you might want to give to the participants, based on your professional experience, to assist them in implementing the relevant human rights standards in their daily work;

### **Role of the Trainer - During the course**

1. Participate in daily pre- and post-course briefings with the rest of the training team;

2. Attend and participate in all course sessions;

3. Meet with your session co-presenter the day before each scheduled presentation to plan roles and activity;

4. Deliver presentations and facilitate discussion, adhering to specified time limits, based on the training materials, for the topics assigned to you as a session presenter;

5. Timekeeping - Once participants have been given a programme with timings in it, the trainer must stick to the published times unless they agree with the participants to vary the timings. If sessions overrun, participants get restless and tend not to concentrate. Trainers must carefully monitor the time and move things on if discussions are going on for too long or if groups have not returned from small group activities. Trainers will need to be flexible in using the material - speeding up or slowing down depending on how the sessions is going. Some discussion points can be dropped and others added to regulate the time available.

6. Make practical recommendations, based on your professional experience, during discussion periods and in working groups, including during sessions for which you are not the session presenter;

7. Ensure that any comments or recommendations made are consistent with the international standards set out in the training materials;

8. Encourage active group participation and discussion; provide advice and comments on the training materials; and attend all opening and closing ceremonies and ancillary events of the programme;

### **Role of the Trainer - After the course**

1. Participate in a final debriefing session with the rest of the training team;
2. Review and revise your materials, on the basis of this experience.
3. Provide feedback to UNODC on the training programme and evaluation sheets.

## Chapter 4 - Outline Training Programme for Module 1

<b>DAY 1</b>			
<b>Session</b>	<b>Time</b>	<b>Subject</b>	<b>Trainer</b>
1	10.00 – 10.30	Opening ceremony and objectives	
	10.30 – 11.00	Break	
2	11.00 – 13.00	Basic Human Rights	
	13.00 – 14.00	Lunch	
3	14.00 – 16.00	Physical Conditions - Basic Necessities	

<b>DAY 2</b>			
<b>Session</b>	<b>Time</b>	<b>Subject</b>	<b>Trainer</b>
	09.00 - 09.30	Review of Day 1	
4	09.30 – 10.30	Admission, Sentence planning and Release	
	10.30 – 11.00	Break	
5	11.00 – 13.00	Constructive Activities/Rehabilitation	
	13.00 – 14.00	Lunch	
6	14.00 – 16.00	Order and Discipline	

<b>DAY 3</b>			
<b>Session</b>	<b>Time</b>	<b>Subject</b>	<b>Trainer</b>
	09.00 - 09.30	Review of Day 2	
7	09.30 – 10.30	Security	
	10.30 – 11.00	Break	
8	11.00 – 13.00	Health Care and Medical Services	
	13.00 – 14.00	Lunch	
9	14.00 – 16.00	Contact with the Outside World	

<b>DAY 4</b>			
<b>Session</b>	<b>Time</b>	<b>Subject</b>	<b>Trainer</b>
	09.00 - 09.30	Review of Day 3	
10	09.30 – 10.30	Complaints, Grievances and Requests	
	10.30 – 11.00	Break	
11	11.00 – 13.00	Special categories of prisoners – Part 1	
	13.00 – 14.00	Lunch	
12	14.00 – 16.00	Special categories of prisoners – Part 2	

<b>DAY 5</b>			
<b>Session</b>	<b>Time</b>	<b>Subject</b>	<b>Trainer</b>
	09.00 - 09.30	Review of Day 4	
13	09.30 – 10.30	Prison Staff /Administration of Prisons	
	10.30 – 11.00	Break	
14	11.00 – 13.00	Summary and next steps	
	13.00 – 14.00	Lunch	
15	14.00 – 15.00	Closing ceremony & certificates	



## Chapter 5

### TRAINING SESSIONS

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## SESSION 1

### OPENING CEREMONY, ICEBREAKERS AND OBJECTIVES

#### Slide 1 – TITLE

Welcome and Objectives

#### Duration:

30 Minutes

#### Purpose of session:

The purpose of this session is to welcome participants to the 5 day training course, discuss the purpose and objectives of the course, and to help participants relax and to create a learning environment.

#### Welcome

Welcome participants to the training course.

Introduce yourself - reference should be made to your experience and the qualifications that particularly fit you for the training task.

Outline the background to the training and why it is taking place.

#### Icebreakers

Explain that it would be helpful to get to know the participants a little more and to understand their expectations from the course.

Pair participants up and have each interview the other to identify:

#### Slide 2 - ICEBREAKER

- Name
- How long have you worked for GARRC
- Why are you attending the training
- And what you want to learn to make the workshop valuable to you.

Give the participants **5 minutes** to interview each other.

Provide paper for participants to take notes during their interviews.

Ask each participant to introduce the other to the larger group – by answering the above questions about the other person.

Write on a flipchart the objectives given by the participants

## **Objectives**

Explain participants what your objectives are for the training course and what you are intending to achieve.

### **Slide 3 – OBJECTIVES (1)**

- To familiarise prison staff with the principles of human rights and human dignity and to establish an understanding of the importance of protecting and respecting these rights.
- To identify some of the most common and serious violations of human rights and human dignity in prison settings.
- To enable prison officers to carry out their roles and responsibilities while preserving the human rights and human dignity of prisoners and to protect them from these abuses as may be carried out by others.
- To promote understanding among prison officers of the importance of applying international standards in managing prisons and to identify where gaps exist between current practices and those dictated by international standards.

### **Slide 4 - OBJECTIVES (2)**

- To encourage the development of skills necessary to transform that information into practical behaviour.
- To sensitize prison staff to their particular role in promoting and protecting human rights, and to their own potential for affecting human rights in their daily work;
- To reinforce prison staff's respect for, and faith in, human dignity and fundamental human rights;
- To encourage and reinforce an ethos of legality, and of compliance with international human rights standards, within prisons;

## **Outline training programme**

Outline the training programme for participants - give a brief description of each session.

Include arrangements for meals and smoking/coffee breaks, and start and finishing times.

## **Training methodology**

Explain why the course is structured in the way that it is. In particular, it should be highlighted that:

### **Slide 5 – TRAINING METHODOLOGY**

- The training offered in Module 1 is relevant and helpful to prison staff in their daily work; it is not a theoretical discussion, but is intended to help prison staff as they go about their regular duties;
- The training process is designed to be interesting and informative; in particular, active participation is encouraged and interactive training techniques will be used;
- Participants' knowledge, expertise and practical experience provide an added value to the course and will be drawn on during the course.

## **Group Rules**

Spend 5 minutes discussing group rules – the rules that will govern how the participants will work with each other during the training course.

Ask participants for their ideas.

Write the agreed rules on a flip chart and stick to the wall.

Issues to explore include:

- Turn mobile phones to silent
- Start on time in morning
- Return promptly after breaks
- Value other people's opinions
- Be constructive in comments
- Only one person to speak at a time
- All participants have an equal voice

## **Handouts**

Give participants a copy of the Handouts (contained in Chapter 6).

Ask participants to have a quick look at the handouts - before breaking for coffee.

Explain that you will be referring to the handouts throughout the training programme and that they will need to bring the handouts to each session.



**SESSION 2**  
**BASIC HUMAN RIGHTS**

**Slide 1 – TITLE**

**BASIC HUMAN RIGHTS**

**Duration:**

2 Hours

**Purpose:**

To introduce the principle of human rights, underlining the fact that individuals who are in prison retain all their rights as human beings except those that have been lost as a specific consequence of deprivation of liberty.

The secondary purpose is to provide an overview of the international background, laws and instruments in relation to human rights as they apply in prison.

**Key Points:**

**Slide 2 – KEY POINTS**

- All human beings are equal in dignity and rights, rights that stem from universal human values.
- All persons deprived of their liberty shall be treated at all times with humanity and with respect for the inherent dignity of the human person.
- International human rights law is binding on all States and their agents, including prison officials.
- Prison staff should know, and be able to apply, international standards on human rights.

**Prisoners as Human Beings**

Everything discussed over the next few days is underpinned by human rights. These rights are derived from universal, general human rights principles - there are certain rights and freedoms that are essential to human existence. They apply to every individual whether they are in prison or not, and are intrinsic rights that come as a consequence of being human.

***Discussion point:***

*Can you give me some examples of what might be considered to be Fundamental and Universal Human Rights?*

The key rights that will be covered by these sessions consist of the right to:

### Slide 3 – KEY RIGHTS

- Life and integrity
- Be free from torture or other ill-treatment
- Health
- Respect for human dignity
- Due process of law
- Freedom from discrimination of any kind
- Freedom of conscience, thought and religion
- Respect for family life
- Self-development

Basic **universal human rights** are enshrined in international laws and norms. Many states in every region of the world have signed and ratified international treaties, conventions, covenants and rules confirming these rights.

Regardless of circumstances, all human beings **retain their fundamental human rights**. They cannot be taken away without legal justification.

***Discussion point:***

*What Rights do you think people should forfeit when they are in prison?*

People held in lawful detention or in prison **forfeit for a time the right to liberty**. Some **other rights may be limited** by the fact of detention or imprisonment. These include: the right to certain personal liberties; the right to privacy; freedom of movement; freedom of expression; freedom of assembly and freedom to vote.

The important issue is whether and to what extent any further limitation of human rights is a necessary and justifiable consequence of deprivation of liberty.

Many people in prison are serving sentences. They are in **prison as punishment but not for punishment**. The penalty consists in loss of liberty.

There are also many **people in detention who are not serving sentences**, although they may be held in prison with sentenced prisoners. Some are awaiting trial; others are awaiting other decisions, for instance, about political asylum or immigration status. None are in prison either as punishment or for punishment. They are in prison as a precaution. For them, too, life in prison should be made as close to normal life as possible.

When the State deprives a person of liberty, it assumes a **duty of care** for that person.

***Discussion point:***

*What duties of care – in relation to Human Rights – do you think the State has when it sentences people to prison?*

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 and for the person to have opportunities for self development.

### **International Human Rights Laws and Instruments**

As previously mentioned, basic **universal human rights** are enshrined in international laws and instruments. Among the most important are the:

#### **Slide 4 – HUMAN RIGHTS INSTRUMENTS**

- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- Basic Principles for the Treatment of Prisoners
- UN Standard Minimum Rules for the Treatment of Prisoners

These instruments provide a set of rules to help prison staff perform their duties through policies and practices that are lawful, humane and disciplined.

First of all, let us look at **the Universal Declaration of Human Rights**.

The Universal Declaration of Human Rights, from 1948, is a broad outline of human rights objectives which has inspired more than 140 human rights instruments. While

it is not a binding instrument, some of its provisions are considered to have the character of customary international law.

Next, let us look at the **International Covenant on Civil and Political Rights**.

The International Covenant on Civil and Political Rights came into force in 1976. The Covenant details the right to life; the prohibition of torture; the prohibition of slavery, servitude and forced labour; the prohibition of arbitrary arrest or detention; the rights of all persons deprived of their liberty; the prohibition of imprisonment for failure to fulfil a contractual obligation; the right to a fair trial; and the prohibition of retroactive penal measures.

The Covenant is a legally binding instrument that must be respected by Governments and their institutions, including prison authorities. The implementation of the Covenant is monitored by the Human Rights Committee, which was established under the terms of the Covenant itself.

Another important **UN Convention** is the **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment entered into force in 1987. The Convention goes considerably further than the International Covenant on Civil and Political Rights in protecting against the international crime of torture.

Along with the **UN Standard Minimum Rules for the Treatment of Prisoners**, which will be dealt with in more detail later, the **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment** and the **Basic Principles for the Treatment of Prisoners** are international instruments that provide a comprehensive set of safeguards for the protection of the rights of prisoners who are detained or imprisoned.

The content of these instruments form the basis for organising any prison regime, and form the basis for much of the content over the following sessions. Their overall statement is that all prisoners and detainees must be treated with respect for their human dignity, with regard to the conditions of their detention. They deal predominantly with the issues of treatment and discipline, contact with the outside world; health; classification and separation; complaints; work and recreation; and religion and culture – topics that form the basis for the training sessions.

Another important set of minimum rules are the **United Nations Standard Minimum Rules for the Administration of Juvenile Justice**, also known as the **Beijing Rules**, which are crucial minimum rules for the treatment of young people in prison. The **Declaration on the Elimination of Violence against Women** and the **Convention on the Elimination of All Forms of Discrimination against Women** are particular rules that focus on women. These will be considered in more detail in Sessions 11 and 12.

## **Torture and Ill-Treatment**

Something that stems from human rights, and is particularly applicable to prisoners, is a universal prohibition on torture and ill-treatment.

Torture or any other form of inhuman or degrading treatment or punishment is absolutely prohibited and can never be condoned in any circumstances.

**Article 5** of the **Universal Declaration of Human Rights** provides that:

### **Slide 5 - Universal Declaration of Human Rights**

'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.' (Article 5)

#### ***Discussion point:***

*What do you think is meant by 'torture or to cruel, inhuman or degrading treatment or punishment'? Can you give me some examples of each? Does everyone agree? Are there other examples?*

**Article 1, Paragraph 1, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** defines torture as:

### **Slide 6 - CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

'any act which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from his 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.' (Article 1, para 1)

Article 16, Paragraph 1, of the Convention defines other cruel, inhuman or degrading treatment or punishment as:

### **Slide 7 - CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

'other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or

acquiescence of a public official or other person acting in an official capacity.’ (Article 16)

Article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment confirms the absolute nature of the prohibition on torture:

### **Slide 8 - CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

‘No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture’.

‘An order from a superior officer or a public authority may not be invoked as a justification of torture’. (Article 2)

The international instruments are unequivocal.

Under no circumstances is there ever any justification for torture or cruel, inhuman or degrading treatment or punishment.

The definition of torture is comprehensive. It includes any form of pain or suffering, whether physical or mental, other than that which is inherent in the fact of detention or imprisonment.

This means that:

- Prisoners must never be beaten or subjected to corporal punishment;
- Corporal punishment may not be inflicted for disciplinary offences;
- Force may be used only when it is essential to restrain a prisoner;
- Staff should be trained in non-violent methods of dealing with intransigent prisoners;
- Staff, when carrying out their duties, must always act within the law;
- Staff found guilty of torturing or inflicting unjustified violence on prisoners should be prosecuted and sanctioned in accordance with the law;
- Prisoners should be able to complain to independent persons about any ill-treatment without fear of future discrimination;
- Officials, such as judges, should be able to visit prisons to ensure that torture or inhuman treatment or punishment is not taking place.

We will look at each of these over the next few days.

## **Monitoring human rights**

Simply having a set of rules is not enough to ensure their application. The implementation of human rights standards is closely watched at several levels.

### ***Discussion point:***

*Who do you think monitors human rights?*

National institutions and organisations monitoring human rights include:

- Government agencies and Services
- National Human Rights institutions, such as an independent human rights commission
- Human Rights groups and other non-governmental organisations (NGO's)
- Community-based organisations
- The courts
- The media
- Trade Unions
- Professional Associations (such as doctors' associations)
- Religious Organisations
- Academic Organisations

There are also regional organisations who have developed mechanisms to monitor human rights standards by countries in their respective regions, for example in Europe the **European Court of Human Rights** and the **Committee of Ministers of the Council of Europe**. At the international level, human rights are monitored by a number of international **NGO's** and the **United Nations**.

Within the **UN**, several types of monitoring are carried out:

### **Slide 9 – UN MONITORING MECHANISMS**

1. 'Conventional' or treaty-based monitoring
2. 'Extra-conventional' or charter-based monitoring
3. Peacekeeping and human rights field operations

The first is '**conventional**' or **treaty-based monitoring**. Some human rights treaties establish a committee of experts whose main task is to monitor the implementation by States parties of the relevant treaty, mainly through the analysis of periodic reports submitted by those states.

Five treaty bodies also have competence to examine individual complaints of human rights violations, under optional complaints procedures (the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the Committee against Torture, the Committee on the Elimination of Discrimination against Women and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families).

The second type of monitoring is '**extra-conventional**'. It is based on procedures and mechanisms established by the Commission on Human Rights or the Economic and Social Council, including a confidential procedure (known as the '1503 procedure') for dealing with communications relating to consistent patterns of gross violations of human rights, and special public procedures which examine, monitor and report on human rights situations either in specific countries and territories or concerning a specific human rights problem.

The third type of monitoring is through **peacekeeping and human rights field operations**. Recently, the inclusion of human rights aspects in the mandates of United Nations peacekeeping operations has increased dramatically. The assignment of various human rights functions to the international personnel involved in their implementation has included monitoring the human rights situation and reporting on it.

### **Enforcement of Human Rights**

***Discussion point:***

*How do you think human rights are enforced?*

International human rights law obliges States to take all necessary measures to give force to the standards contained in treaties and customary principles. This means, among other things, ensuring redress for victims, prosecuting offenders, preventing abuses and combating impunity.

In the first instance then, it is individual States themselves that must act to enforce these standards, principally through their domestic legal systems. Where they cannot or do not act, or will not prosecute, States may be compelled to extradite, transfer or surrender an alleged offender for prosecution elsewhere.

Some treaties, such as the **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**, expressly require States parties to try or extradite offenders.

At the international level, in the 1990s, in the wake of genocide and crimes against humanity in Rwanda and the former Yugoslavia, ad hoc tribunals were established by the United Nations Security Council to bring to justice persons responsible for serious abuses in those countries.

Subsequently, as the decade and the millennium drew to a close, the international community advanced the cause of enforcement significantly with the adoption, in Rome on 17 July 1998, of the **Statute of the International Criminal Court**, which entered into force on 1 July 2002, creating a permanent international tribunal to give effect to the affirmation in the **Universal Declaration of Human Rights** that:

**‘It is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.’**

### **United Nations Standard Minimum Rules (SMR)**

We will now look at the **United Nations Standard Minimum Rules for the Treatment of Prisoners**, which were adopted in 1955, in more detail.

***Discussion point:***

*What do you know about the **Standard Minimum Rules**? What aspects of prison do you think they cover?*

### **Slide 10 – UN STANDARD MINIMUM RULES**

- Adopted 1955
- Approved 1957 by Economic and Social Council
- 95 Rules
- Apply in all places of detention

The original 94 rules that make up the SMR have never been amended. In 1957 they were approved by the Economic and Social Council of the United Nations, which in 1977 added a new **Rule 95** in order to extend the scope of the SMR by explicitly including persons detained without charge. This implies that the SMR are not applicable only to people in prison but also to people detained against their will in other places – such as police cells and psychiatric hospitals.

The SMR are one of the oldest international instruments concerning the treatment of people in custody and have gained very wide recognition for their value and influence in the development of penal policy and practice.

They contain a greater level of practical detail about the duty of care for prisoners than is generally to be found in declarations, conventions and covenants.

Since their adoption in 1955 the SMR have been affirmed, directly and indirectly, by other international and regional instruments. They have been recognized as an accepted basis for penal policy by national legislatures and prison administrators.

The SMR have been used by national and international courts and other bodies to shed light on the care to which people in custody have a right.

The recognition which the SMR have received means that they have developed a special status amongst international criminal justice instruments. They have become indispensable to the interpretation of international human rights conventions and must be recognized as generally forming part of international human rights law.

### **Scope of SMR**

The SMR are minimum rules; they establish the standards below which provision must not fall. They are of an absolute and fundamental character.

They constitute basic principles and, as such, are **intended to be implemented everywhere and at all times.**

Examples of the fundamental principles in the SMR include the following:

### **Slide 11 – SMR FUNDAMENTAL PRINCIPLES**

- Prisons shall be well-ordered communities, that is, they shall be places where there is no danger to life, health and personal integrity;
- Prisons shall be places in which no discrimination is shown in the treatment of prisoners;
- Prison conditions shall not seek to aggravate the inherent affliction of being deprived of liberty; they should not make prisoners worse in any way;
- Prison activities shall focus as much as possible on helping prisoners to resettle in the community after the prison sentence has been served.

The key purpose of the Rules is stated in **Preliminary Observation 1**, that the Rules seek to identify:

## Slide 12 – SMR KEY PURPOSE

‘the essential elements of the most adequate systems of today, (and) to set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions’.

The reference to “essential elements” refers directly to the fact that the SMR comprise only basic and minimum requirements - the necessary conditions for a prison system to achieve minimally humane and effective standards.

The Rules are not intended to give a detailed description of a model.

But they do seek to set out what, by general consensus, is accepted as the essential elements of good principle and practice in the treatment of prisoners and the management of prisons.

SMR provides the guiding principle – as **Rule 56** makes clear:

## Slide 13 – SMR GUIDING PRINCIPLE

‘The guiding principles hereafter are intended to show the spirit in which penal institutions should be administered and the purposes at which they should aim.’ (Rule 56)

***Discussion point:***

*Do you think that all countries are able to fully implement the **Standard Minimum Rules**? Why are they not able to fully comply?*

Since legal, social, economic and geographical conditions in the world vary greatly, not all the Rules can be applied in all places at all times. The fact that certain Rules cannot be applied in all places at all times should stimulate a constant endeavour to overcome practical difficulties in order to achieve the minimum conditions accepted as suitable by the United Nations.

The Rules do not preclude experimentation for the development of practices which are in harmony with the principles of the Rules and intended to further purposes which can be derived from the Rules as a whole.

Probably no prison system can be said to fulfill completely the minimum requirements laid down in the SMR and some systems fall markedly short of doing so. The need for continuous experimentation, development and improvement cannot therefore be overstated.

## Slide 14 – SMALL GROUP ACTIVITY

### Small Group Activity

1. What do the relevant provisions in the Law of Reform and Rehabilitation Centres have to say in relation to the following:
  - Torture
  - cruel, inhuman or degrading treatment
  - Corporal Punishment
  - Racial Discrimination
  - Gender Discrimination
  - Misuse of Power
2. Do you think that there are any differences when compared to the International Standards and Norms – both higher level of provision and shortfalls?
3. What mechanisms exist in Palestine to monitor compliance? Are they effective?

## SESSION 3

### PHYSICAL CONDITIONS AND BASIC NECESSITIES

#### Slide 1 – TITLE

#### PHYSICAL CONDITIONS AND BASIC NECESSITIES

##### Duration:

2 Hours

##### Purpose of session:

The purpose of this session is to emphasise that prisoners have the right to certain standards of living through the physical conditions in which they are kept. These standards include accommodation, sanitation, personal hygiene, clothing and bedding, food and exercise.

##### Key Points:

#### Slide 2 – KEY POINTS

- All prisoners have the right to an adequate standard of living, including adequate accommodation, clothing and bedding, food, and drinking water.
- Accommodation for prisoners should provide adequate space, lighting and ventilation. Prisoners required to share accommodation should be carefully selected and supervised.
- Adequate food and drinking water are human rights – all prisoners have the right to food at usual hours, and drinking water whenever needed.
- All prisoners not allowed to wear their own should be provided with suitable attire.
- Prisoners should be provided with separate beds and clean bedding, and facilities for keeping bedding clean should be in place.

##### Accommodation

All persons deprived of their liberty have the right to an adequate standard of living, starting with their accommodation. Prisoners are usually required to remain in a particular location for extended periods. This accommodation must meet certain basic standards.

Firstly let us consider **Rule 9 (1)** of the Standard Minimum Rules for the Treatment of Prisoners which deals with cells:

### Slide 3 – CELLS

'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.' (Rule 9(1))

Whilst single cells desirably should be used for single prisoners, experience has shown that it is not necessarily undesirable to forbid allowing two prisoners to occupy a single cell, provided that its space, ventilation, furnishing, sanitation etc. are up to standard.

**Rule 9 (2)** refers to dormitories:

### Slide 4 - DORMITORIES

'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'. (Rule 9(2))

Dormitory housing brings about a whole range of safety concerns.

*Discussion point:*

*When prisoners share accommodation there is always the possibility that sexual and other form of abuse and bullying may take place. What steps can the prison administration take to ensure the safety of prisoners who are sharing a room or cell?*

High numbers of people with criminal and sometimes violent backgrounds housed together are likely to single out some vulnerable prisoners for abuse or are prone to other types of dangerous behaviour, such as gang-related activities.

For these and similar reasons extreme caution on the part of the prison staff must be exercised, in particular when using dormitory types of housing. Prisoners with a history of violent behavior, either within prisons or outside, should never be housed in dormitories. Prisoners should not be housed in dormitories unless prison staff knows enough about them to be able to assess their suitability to be housed together, as mandated by the Rule.

In order to be able to supervise a dormitory at night, a prison officer must inspect it at regular intervals, not longer than one hour. In addition, he or she needs to be stationed within earshot of the dormitory and be able to hear what is going on inside at all times (so that help can be summoned immediately). Inspections however

should not be intrusive. They should be carried out in such a way as not to wake prisoners who are sleeping.

### **Space, Light and Ventilation**

**Rule 10** makes clear that:

#### **Slide 5 – SPACE, LIGHT, VENTILATION**

‘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.’(Rule 10)

Many national prison regulations are much more specific than the SMR when it comes to the actual size, temperature or ventilation of cells. The vagueness of SMR is intentional in this place: a cell located in an extremely cold climate needs to be different from a cell located in a tropical one.

The key part of **Rule 10** is that accommodation must meet all requirements of health. In other words, the administrators must take care to assure that conditions are not harmful to a prisoner’s health.

Sleeping in extremely stuffy, or cold, or damp rooms leads to a number of ailments. Spending long hours in extremely crowded rooms, especially in those cases when prisoners don’t work and do not leave the cells except for short recreation periods, may lead to muscle atrophy. Where prisoners are required to work in their cells, the work materials often crowd the place even further, while work in the cell may lead to additional health problems.

*Discussion point:*

*What do you consider to be the minimum amount of space that should be provided for each prisoner to enable them to remain healthy?*

These days the international norm is a minimum standard of 2.5m<sup>2</sup>.

**Rule 11** deals with light and ventilation:

#### **Slide 6 – LIGHT AND VENTILATION**

‘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.’ (Rule 11)

Spending an extended number of hours in a badly lit area may cause permanent damage to the eyesight. Efforts should be made to assure sufficient light. Prolonged exposure to artificial light only may also be harmful both to a prisoner’s vision as well as to his or her mental wellbeing.

For that reason all windowless cells that currently exist (in clear violation of SMR) must be eliminated and all other cells should have sufficient artificial light, in addition to the source of natural light.

Every cell should have an electric switch inside the cell. Not being able to make a decision about turning the light on or off unnecessarily adds to the feeling of powerlessness and frustration on the part of the prisoner.

*Discussion point:*

How can you tell whether a cell has enough light?

To assess the adequacy of the lighting in each cell prison staff members may conduct a very simple test by inspecting all cells with a book at hand and try to read a few lines in each cell.

### **Sanitation and Cleanliness**

**Rule 12** covers sanitation:

#### **Slide 7 - SANITATION**

‘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’. (Rule 12)

Being able to take care of one’s physical necessities in private and in a decent manner is extremely important to everyone.

It is particularly important that prisoners have access to a toilet at all times. Nobody should be put in a position when one’s ability to take care of the most basic physical needs depends on a guard and his or her availability or willingness to open the door and lead a prisoner to a bathroom.

Toilets located in or adjacent to the cells should have covers and should be separated from the living area by a wall or at the very least, a partition. This is particularly important in prisons where prisoners eat in the cell because eating in the presence of an open toilet is extremely unpleasant.

Efforts should be made to provide all cells with flushable toilets; if this is impossible, containers used need to be emptied several times a day. Toilet paper should be kept in constant supply.

In dormitory-type cells, if supervision of toilet areas is needed for security reasons, such supervision should always be done by staff members of the same sex as the prisoners.

**Rule 14** deals with institutional cleanliness:

### **Slide 8 - CLEANLINESS**

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

Prisoners should be required to keep their cells clean; the prison needs to provide the necessary supplies to do so, such as buckets, soap, mops, brooms, etc.

*Discussion point:*

How can the prison administration encourage prisoners to keep their rooms and communal areas clean and tidy?

Each prison should devise a routine for maintaining the cleanliness of common areas of the prison, using prisoners to undertake the work and devising a system of remuneration or rewards for work performed.

### **Personal Hygiene and Care**

**Rules 13, 15, and 16** deal with personal cleanliness.

Prisoners’ ability to maintain their personal hygiene determines to a large extent their capacity to keep up their self-respect. **Rule 15** makes clear that:

### **Slide 9 – PERSONAL HYGIENE**

‘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’.(Rule 15)

*Discussion point:*

What types of toiletry articles should prisoners be provided with by the prison administration?

The prison needs to supply prisoners with soap, toothbrushes, toothpaste and towels, as a minimum. When prisoners are allowed to receive or buy such items from outside, the prison still has the responsibility to have these items available, since some prisoners will not be able to afford them.

One additional thing to remember when arranging for prisoners' access to toilet articles is to provide them with a place in which to keep toilet articles of personal use (such as toothbrushes, for example) and the articles that are not kept in constant supply in the common areas. This needs to be done to avoid theft and fights among prisoners, but also to provide them with a sense of privacy.

**Rule 13** deals with bathing:

### **Slide 10 - BATHING**

*'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'.(Rule 13)*

*Discussion point:*

*How frequently should we allow prisoners to have a shower or bath?*

Efforts should be made to allow any prisoner the use of a bath or shower every time he or she wants to use it. This ready access to hot and cold running water would obviously be the ideal situation and should be the goal of every prison.

In tropical climates, prisoners may use cold water to wash themselves. If running hot water is not available often enough, arrangements may be made to be able to heat water and prisoners should be provided with washbasins.

Prisoners employed in very strenuous or dirty jobs should be able to take a shower at the end of each shift.

That prisoners keep their body clean, and thus free of odor or insects, is also important to the health and wellbeing of everyone forced to spend extended amounts of time in the cell blocks, that is chiefly the prisoners, but their staff as well.

*Discussion point:*

*What should the prison director do if a prisoner refuses to wash and keep clear?*

Staff members should strive to encourage prisoners to keep themselves clean, while avoiding the use of coercion.

Special arrangements need to be made for menstruating women. They should be able to wash themselves and their undergarments as often as they need to. In addition, they should be provided with sanitary material typically used by menstruating women in the country (such as pads, tampons, cotton, cloths).

It is important that these arrangements be available to women under conditions in which they do not need to be embarrassed asking for them (for example either dispensed by other women or, better yet, accessible whenever needed). In those prisons where women live with their children, provisions should be made for adequate hygienic conditions and facilities for infants.

It should be noticed, that personal hygiene and washing can include a religious dimension. **Rule 6** is the basic principle about no discrimination, among other things, on grounds of religion. This means that prisoners should be able to undertake personal hygiene in accordance with their religious beliefs.

**Rule 16** discusses hair and beards:

### **Slide 11 – BEARDS AND HAIR**

*'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'.(Rule 16)*

*Discussion point:*

*Are there any circumstances when it would be permissible for the prison administration to shave a prisoner's head against their will?*

Prisoners' heads should never be shaved against their will, except for demonstrable medical reasons.

Prisoners should also be allowed to wear facial hair if they wish so.

As mandated by the rule, men who do not have beards should be enabled to shave regularly. Obviously, access to blades or other shaving instruments may for security reasons have to be closely supervised.

In addition, staff members must make absolutely sure that no shaving instruments are shared by two or more prisoners.

### **Clothing**

**Rule 17 (1)** of the Standard Minimum Rules then moves on to describe minimum standards for clothing:

#### **Slide 12 - CLOTHING**

'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'.(Rule 17)

This Rule emphasises two major aspects of clothing, its protective function and its social and psychological function.

Clothing should therefore be appropriate for weather extremes as well as for special working conditions. But adequate and decent clothing, in addition to affecting in an obvious way prisoners' health, also affects their morale.

To wear one's own clothing is a part of one's identity and therefore increases one's self-respect and individuality. However some prison systems require prisoners to wear prison clothing or uniform.

*Discussion point:*

*What sort of clothing do you think would be degrading or humiliating?*

If prisoners are to be provided with clothing, civilian clothing is far preferable to prison uniforms. Whilst overalls may often be used for work it is advisable to allow prisoners to wear their own, or civilian clothing after work.

**Rule 88 (1)** deals particularly with **clothing of untried prisoners**.

#### **Slide 13 – UNTRIED PRISONERS' CLOTHING**

'An untried prisoner shall be allowed to wear his own clothing if it is clean and suitable'.

The fundamental principle of **Rule 88** is that untried prisoners shall wear their own clothing. If, however, they wear prison uniform, Rule 88 (2) makes clear that it should be different from that of convicted prisoners.

Where uniforms are still in use, or civilian clothing is provided, those should be available in different sizes, so that no prisoner is required to wear inadequate size clothing making him or her look and feel embarrassed or uncomfortable.

**Rule 17 (2)** deals with the **cleaning of clothes**:

#### **Slide 14 – CLEANING OF CLOTHES**

*'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.'*

It is worth pointing out that there is a lot that staff can do to make the keeping of prisoners' clothes clean easier. In most places, with the exception of locations with tropical climates and institutions equipped with clothes dryers, the most significant problem is the drying of the clothes.

Staff, through their intimate knowledge of the institution and of its prisoners, are best positioned to come up with a system for drying prisoners' clothes and underwear, by designating special area or areas, providing rope to hang the clothes on, etc. Important aspects to also take into consideration while doing so are the fire safety and the safety of the garments (where theft among prisoners is a problem).

Where prisoners are allowed to wear their own clothing and shoes, in addition to devising a system for **admission of these items from outside (Rule 18)**, it is important to remember that some prisoners may not be able to afford clothes to be brought to the prison for them or they may have no one to do it for them.

This is particularly true for poor and foreign prisoners. Thus, even if wearing civilian clothes is allowed, the prison still has the responsibility to provide clothing for those in need.

*Discussion point:*

*What Rules on clothing do you think should apply when a prisoner is outside the prison?*

The SMR also consider the situation of a prisoner transferred outside the prison. **Rule 17 (3)** states:

#### **Slide 15 – CLOTHING OUTSIDE OF PRISON**

*'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.'*

This rule is meant to protect the self-esteem and privacy of the prisoner that is to prevent him or her from calling attention to their person when in public. Thus, when outside of the institution, prisoners could either be allowed to wear their own clothing or an inconspicuous-looking type of clothing, rather than a uniform readily identifiable as prison garb, such as for example a striped jumper or suit, or a jumper in a very bright uniform colour.

### **Bedding**

Individual, clean beds with clean bedding is the minimum requirement at every prison as **Rule 19** of the Standard Minimum Rules makes clear:

#### **Slide 16 - BEDDING**

'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'.(Rule 19)

### **Food and Water**

It may appear obvious but **Rule 20 (1)** reminds prison administrators that they have a duty to provide food and water for prisoners:

#### **Slide 17 – FOOD**

'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'. (Rule 20)

Any prison professional will readily admit that complaints about quality and/or quantity of food are among the most common he or she receives.

*Discussion point:*

*How can the prison administration ensure prisoners receive good quality food?*

*What is meant by 'usual hours'?*

One very simple way for the prison staff director to assess the validity of these complaints is - on regular basis or occasionally - eat the food served to the prisoners themselves. Many prison systems also produce their own food – meat, dairy products and vegetables – which makes sure that the food is fresh and low cost.

Other important nutrition-related factors, in addition to the quality and quantity of the food, are where, when and how often the meals are taken and with what utensils.

Prison staff members should also make all efforts to assure that the utensils are clean and in accordance with local customs of eating.

In institutions without dining halls it is also important to arrange things in such a way that prisoners do not have to eat near badly smelling toilets.

With regards to **water**, **Rule 20 (2)** of the **Standard Minimum Rules** states:

### **Slide 18 - WATER**

*'Drinking water shall be available to every prisoner whenever he needs it'.*

Drinking water should be available to prisoners at all times, both during the day and at night.

When cells are not equipped with faucets carrying drinkable water staff members are in a position to devise a system for keeping drinkable water in constant supply. Such a system may consist of issuing prisoners with clean plastic soda bottles or other safe containers to keep the water in or a number of other arrangements, always making sure that the water is clean and that it is always in the cell, without the need for the prisoners to ask for it.

### **Slide 19 – SMALL GROUP ACTIVITY**

#### **Small Group Activity**

***1. What do the relevant provisions in the Law of Reform and Rehabilitation Centres have to say in relation to the following:***

- ***Accommodation (including space, light and ventilation)***
- ***Sanitation and cleanliness***
- ***Personal hygiene and care***
- ***Clothing and bedding***
- ***Food and water***

***2. Do you think that there are any differences when compared to the international standards and norms – both higher level of provision and shortfalls?***

***3. Are the provisions in the law fully and effectively implemented? If not, what could be done to ensure compliance?***



## SESSION 4

### ADMISSION, SENTENCE PLANNING and RELEASE

#### Slide 1 – TITLE

#### ADMISSION, SENTENCE PLANNING and RELEASE

##### Duration:

1 Hour

##### Purpose:

The purpose of this session is to emphasise that the treatment of prisoners in a humane, dignified and individual manner begins at the moment of admission to custody and continues through the sentence until the moment of release.

##### Key Points:

#### Slide 2 – KEY POINTS

- Prisoners should be held in places that are officially recognised as places of custody.
- A detailed register shall be kept of every prisoner, and all prisoners shall be offered a proper medical examination and treatment as soon as possible after admission.
- All prisoners should be provided promptly with written information about the regulations that apply to their treatment and about their rights and obligations.

##### Admission procedures

The recognition of human dignity begins when a prisoner is first received at a prison. First of all, it is essential that prisoners should be held in places that are officially recognised as places of custody.

**Principle 6** of the **Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions** states that:

#### Slide 3 - PRINCIPLES ON THE EFFECTIVE PREVENTION AND INVESTIGATION OF EXTRA-LEGAL, ARBITRARY AND SUMMARY EXECUTIONS

‘Governments shall ensure that persons deprived of their liberty are held in officially recognised places of custody and whereabouts, including transfers, is made promptly available to their relatives and lawyer or other persons of confidence.’(Principle 6)

*Discussion point:*

*What information do you think should be collected from prisoners on their arrival in prison?*

A register must be kept of all those admitted to prison. **Rule 7** of the **Standard Minimum Rules** highlights that:

#### **Slide 4 - REGISTER**

##### Rule 7 (1)

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

- (a) Information concerning his identity;
- (b) The reasons for his commitment and the authority therefore;
- (c) The day and hour of his admission and release;

##### Rule 7 (2)

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

A register is also specified by **Article 10** of the **Declaration on the Protection of All Persons from Enforced Disappearance**:

#### **Slide 5 - Declaration on the Protection of All Persons from Enforced Disappearance:**

‘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 centralised registers.’(Article 10)

The register should give prisoners’ personal details in a manner that will ensure that they can be identified. A register is particularly important when there may be a danger that people can ‘disappear’ from the system.

As stated by the rules, the register should include the date of admission and release for each prisoner. In addition, personal property should be registered.

*Discussion point:*

*What else do you think should happen when a prisoner arrives in prison? Why do you think that should happen?*

A medical examination is essential. As soon as possible after a person is admitted to prison he or she should be offered a medical examination by a properly qualified medical officer.

This is reflected by **Rule 24** of the **Standard Minimum Rules**:

#### **Slide 6 – MEDICAL EXAMINATION**

*'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.'*(Rule 24)

In some prisons though, it could be difficult for a doctor to examine all prisoners immediately after admission. In these cases a qualified nurse could give preliminary interviews, with the doctor only seeing prisoners referred to him or her by the nurse.

In addition, all staff, particularly those who work in the reception area of a prison, should be specially trained to recognise prisoners who are most at risk of harming themselves or of being harmed by other prisoners.

*Discussion point:*

*What information do you think that prisoners should be given on arrival in prison? Why do you think they should be given this information?*

Wherever possible there should be an induction period for all new prisoners during which the relevant legislation, regulations and routine of daily life in prison is explained to them and they are given the opportunity to meet people who are available to them, such as religious representatives, teachers and others.

**Rule 35** of the **Standard Minimum Rules** states that:

## Slide 7 – WRITTEN INFORMATION

‘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 authorised 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’. Rule 35 (1)

‘If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally’. Rule 35 (2)

This is also reflected in **Principle 13** of the **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**:

## Slide 8 - BODY OF PRINCIPLES FOR THE PROTECTION OF ALL PERSONS UNDER ANY FORM OF DETENTION OR IMPRISONMENT

‘Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively with information on and an explanation of his rights and how to avail himself of such rights.’(Principle 13)

If possible they should be given a personal copy of the prison regulations.

It is also important that as soon as a person is admitted to prison, his or her next of kin, partner or legal representative should be informed where he or she is.

This is confirmed by **Principle 16** of the **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**:

## Slide 9 - BODY OF PRINCIPLES FOR THE PROTECTION OF ALL PERSONS UNDER ANY FORM OF DETENTION OR IMPRISONMENT

(1) Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody.

(2) If a detained or imprisoned person is a foreigner, he shall also be promptly informed of his right to communicate by appropriate means with a consular post or the diplomatic mission of the State of

which he is a national or which is otherwise entitled to receive such communication in accordance with international law or with the representative of the competent international organization, if he is a refugee or is otherwise under the protection of an intergovernmental organisation. (Principle 16)

*Discussion point:*

*Does the prison administration have a duty to inform family members that a person is in custody, if the prisoner does not want them informed?*

The prison administration must respect a prisoner's decision not to inform their family, if that is his wish. The only exceptions are set out in **Principle 16** of the **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**

#### **Slide 10 - BODY OF PRINCIPLES FOR THE PROTECTION OF ALL PERSONS UNDER ANY FORM OF DETENTION OR IMPRISONMENT**

(3) If a detained or imprisoned person is a juvenile or is incapable of understanding his entitlement, the competent authority shall on its own initiative undertake the notification referred to in the present principle. Special attention shall be given to notifying parents or guardians.(Principle 16)

#### **Classification of Prisoners**

Classification of prisoners should also take place on admission.

*Discussion point:*

*Why do you think it is important to categorise prisoners? What purposes are served by categorisation? What criteria should be used for categorisation?*

There are many purposes for classifying prisoners:

- 1) They safeguard prisoners' rights
- 2) They protect certain groups of prisoners
- 3) They determine necessary levels of security and control
- 4) They provide different activities to suit individual needs

These purposes are set out by the **Standard Minimum Rules. Rule 67** states that:

## Slide 11 - CLASSIFICATION

'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.(Rule 67)

While **Rule 68** states that:

## Slide 12 - SEPARATION

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

The rules provide both positive and negative reasons for classification – the positive is basing rehabilitation on individual needs, while the negative reflects theories of contamination and risk reduction. There are tensions between the two.

Classification and separation are linked in the Standard Minimum Rules. The object is to emphasise the important distinctions between categories of prisoners and to increase the likelihood that the distinctions will be observed in practice through treating prisoners individually.

In practice though, classification does not always coincide with separation; separation is often a costly method of dealing with prisoners. Especially in overcrowded conditions, separation of distinct categories of prisoners may quickly vanish and the distinctions between them become obscured.

*Discussion point:*

*Can you think of any possible negative consequences of adopting a rigid categorisation system?*

The dangers of rigid classification should not be overlooked. Prisoners classified as 'dangerous' may find it difficult, if not impossible, to live down this labelling, particularly when special secure units or maximum security prisons exist exclusively to hold such prisoners.

Review and reassessment are important features of any humane classification system which seeks to balance security and rehabilitation. They should be

scheduled and conducted with reasonable frequency and with sensitivity to the individual prisoner's development.

### **Differentiation and Individualisation**

Classification and separation of prisoners by gender, legal status, offending history and age reflect a practical approach to the potential vulnerability of different groups within the prisoner population and the need for protection.

There is also recognition that men and women, alleged offenders and convicted offenders, civil and criminal detainees, young and old, have very different histories and different needs with respect to treatment or self-development.

**Rule 8** of the **Standard Minimum Rules** specify that:

#### **Slide 13 - DIFFERENTIATION**

'The different categories of prisoners shall be kept in separate 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.' (Rule 8)

### **Needs Assessed and Sentence Planning**

The planning of an individual person's imprisonment has implications for the way in which prisoners are dealt with from the moment they first enter custody after sentence.

*Discussion point:*

*Why do you think it is important to plan what a prisoner will do during his/her time in prison? What things do you think should be considered when looking at a prisoner's sentence plan?*

**Rule 69** of the **Standard Minimum Rules** states that:

## Slide 14 - ASSESSMENT

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

The planning process involves finding out about the individual sentenced prisoner. The Standard Minimum Rules describe the prisoner as a passive participant, but experience indicates that sentence planning works best when the prisoner is actively involved in the planning process.

We will discuss reform and rehabilitation activity in detail in Session 5.

### Transfer

An important aspect to the care and treatment of prisoners concerns their needs and rights when being transported. The more differentiated a prison system is, the more prisoners will be moved from one place to another. However, transport of prisoner often presents specific difficulties and causes hardship. This is in particular the case where pre-trial prisoners are transported to courts and vice versa.

*Discussion point:*

*What are the issues that might arise for prisoners before, during and after transfer? What is the responsibility of the police and what remains the concern of prison staff?*

**Rule 45** of the **Standard Minimum Rules** is concerned with this transportation of prisoners:

## Slide 15 - TRANSFER

- (1) When prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safe-guards shall be adopted to protect them from insult, curiosity and publicity in any form.
- (2) The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary hardship, shall be prohibited.
- (3) The transport of prisoners shall be carried out at the expense of the administration and equal conditions shall obtain for all of them.(Rule 45)

The same standards of care and conditions apply during transportation, as they do in prison – who ever is doing the escorting. This means that the task of transporting prisoners should only be undertaken by staff who have had the equivalent training on SMR.

### **Release Preparation**

Prisoners should be prepared for reintegration into society and provided with adequate social support when they are released.

*Discussion point:*

*In what ways can the prison prepare someone for release, especially if the person has been in prison for many years?*

**Rule 80** of the **Standard Minimum Rules** states that:

### **Slide 16 – RELEASE PREPARATION**

‘From the beginning of a prisoner’s sentence consideration shall be given to his future after release and he shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interests of his family and his own social rehabilitation.’(Rule 80)

It highlights that an important task of prison staff is to prepare prisoners to live within the law after they are released from prison.

Prison staff should motivate prisoners to change their behaviour, and prisoners will benefit from a pre-release programme.

**Rule 81** concerns agencies and services responsible for the reintegration of prisoners:

### **Slide 17 – ROLE OF OTHER AGENCIES AND NGOs**

‘Services and agencies, governmental or otherwise, which assist released prisoners to re-establish themselves in society shall ensure, so far as is possible and necessary, that released prisoners be provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.’ (Rule 81(1))

'The approved representatives of such agencies shall have all necessary access to the institution and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his sentence.' (Rule 81(2))

'It is desirable that the activities of such agencies shall be centralized or coordinated as far as possible in order to secure the best use of their efforts.' (Rule 81(3))

*Discussion point:*

*What types of organisation do you think can help prisoners prepare for release and also provide effective after-care once the prisoner has been released?*

Prison staff cannot work in isolation. We need to encourage governmental and non-governmental organizations which work with former prisoners in the community to come into the prison to build relationships with prisoners before they are released.

All agencies and services responsible for the reintegration of prisoners into society shall ensure that all prisoners have the means and available resources to maintain themselves in the period immediately following their release.

#### **Slide 18 – SMALL GROUP ACTIVITY**

##### **Small Group Activity**

**1. What do the relevant provisions in the Law of Reform and Rehabilitation Centres have to say in relation to the following:**

- **Admission**
- **Transfer**
- **Sentence planning**
- **Preparation for Release**

**2. Do you think that there are any differences when compared to the international standards and norms – both higher level of provision and shortfalls?**

**3. Are the provisions in the law fully and effectively implemented? If not, what could be done to ensure compliance?**

## **SESSION 5**

### **CONSTRUCTIVE ACTIVITIES and REHABILITATION**

#### **Slide 1 – TITLE**

#### **CONSTRUCTIVE ACTIVITIES AND REHABILITATION**

##### **Duration**

2 Hours

##### **Purpose of session:**

The purpose of this session is to underline that it is not the task of the prison administration to inflict further punishment on the prisoner. On the contrary, prisoners should be encouraged to use their time in prison to learn new skills, to improve their education, to reform themselves and to prepare for eventual release.

##### **Key Points:**

#### **Slide 2 – KEY POINTS**

- The main aim of the prison authorities in their treatment of prisoners should be to encourage personal reformation and social rehabilitation.
- The purpose of the prison regime should be to help prisoners to lead law-abiding and self-supporting lives after their release.
- All sentenced prisoners who are medically fit shall be required to work. As far as possible this shall give them skills for work in the outside world. Prisoners should be remunerated for the work they do.
- Education and cultural activities shall be provided and encouraged, including access to an adequate library. Education in prisons should be aimed at developing the whole person, taking account of a prisoner's social, economic and cultural background.
- All prisoners have the right to observe the tenets of their religion and to have access to a minister of that religion.

##### **Rehabilitation Focus**

It is clear that people are sent to prison as punishment, not for punishment and that treatment of prisoners must therefore not be punitive.

The Standard Minimum Rules reflect a treatment philosophy. The emphasis has shifted towards providing prisoners, of whatever status, with assistance and opportunities to develop their individual potential and to cope positively with their return to society.

This view is grounded in the reality that today's prisoner is tomorrow's ex-prisoner. It is in the interests both of the prisoner and of society to promote the prospects for resettlement through positive treatment in prison.

**Article 10 (3)** of the **International Covenant on Civil and Political Rights** states that:

### Slide 3 – TREATMENT ETHOS

#### International Covenant on Civil and Political Rights

'The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.' (Article 10(3))

**Rule 65** of the **Standard Minimum Rules for the Treatment of Prisoners** also highlights prisons rehabilitative qualities:

### Slide 4 - REHABILITATION

'The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so.' (Rule 65)

*Discussion point:*

*What sort of activity do you think prisons should provide to assist prisoners to reform and rehabilitate themselves?*

### Factors Supporting Rehabilitation

**Rule 59** of the **Standard Minimum Rules** sets out the requirement that prisons support prisoners' rehabilitation:

### Slide 5 – SUPPORTING ACTIVITY

'To this end the institution should utilise all the remedial, educational, moral, spiritual and other forces and forms of assistance which are appropriate and available, and should seek to apply them according to the individual treatment needs of the prisoners'.(Rule 59)

Prisons should also seek to make minimize the differences between life in prison and life in the community as **Rule 60 (1)** makes clear:

## Slide 6 - NORMALISATION

'The regime of the institution should seek to minimise any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings' (Rule 60(1))

The idea of making prison life as normal as possible has developed in recent years. There is a growing recognition that to exacerbate the deprivation of imprisonment is not only unjustifiable but also reduces the chances of resettlement on release and so increases the risk to society, if the ex-prisoner returns to crime as a means of survival.

Prison by definition is not normal. Attempts to make prison more like normal life can never counteract the deprivation that loss of liberty entails, but may reduce the alienating effect of imprisonment.

*Discussion point:*

*In what ways can we make prisons more like society outside of prison?*

Initiatives to maintain prisoners' links with the outside world are an important part of making prison life normal, as are facilities to allow prisoners to wear their own clothes, and to clean and cook for themselves.

Provision for such activities serves several purposes. Reducing the difference between life inside and outside prison encourages independence and responsibility, gives practice in basic skills and reduces reliance on services provided by the prison administration.

### **Dynamic Security**

In addition to preparing prisoners for release, good prison regimes have another benefit – what is often known as dynamic security – which will be discussed in more detail in Session 7.

The concept of dynamic security was not recognised at the time when the Standard Minimum Rules were framed. Nowadays, on the basis of long and hard experience, it has become clear that security is not just about locking people behind doors and bars – it is about keeping prisoners engaged in constructive activities and staff and prisoners having positive interactions.

It is now generally acknowledged that prisons run safely and positively with the co-operation of prisoners. External security (freedom from escapes) and internal safety (freedom from disorder) are best ensured by building positive relationships between prisoners and staff.

This is the essence of dynamic security: security depends upon good relations within prisons and on positive treatment of prisoners.

### **Needs Assessment**

It is generally accepted that other activities should be planned following an assessment of prisoner needs.

**Rule 69** of the **Standard Minimum Rules** requires that:

#### **Slide 7 – NEEDS ASSESSMENT**

‘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 69)

*Discussion point:*

*What factors do you think could form the basis for prisoner assessment?*

**Rule 66 (1)** lists factors that could form the basis for prisoner assessment. This implies a sophisticated assessment process, which in practice requires time and skilled staff.

Training of staff in counselling and assessment skills may be a useful means of moving in the direction of skilled assessment of prisoners. This may be combined with the development of assessment teams involving people from different disciplines.

Where specialist skills are not available at individual institutions, a practical alternative is to provide centralised units for assessing and allocating prisoners after sentence.

The requirement for updating clearly reflects the fact that prisoners’ needs change over time. The process of updating entails regular feedback on individual development.

Even if the initial assessment is carried out by a centralised assessment team, effective planning and treatment will depend on local staff developing the necessary skills to amend and carry forward treatment plans. This has implications for training of local staff.

*Discussion point:*

*What training do you think prison officers will need to be able to carry out an effective assessment and reviews of prisoners?*

### **Time out of Room or Cell**

The SMR recognise that inactivity and boredom are among the worst aspects of imprisonment. Because overcrowding is a common feature of prison life, it is particularly important that provision for activities involves occupying prisoners out of their rooms and cells during the day.

The basic standards regarding activities stress that the normal situation outside prison should apply to activities undertaken in prison. The recommended norm is for prisoners to be out of cell during the day and occupied in useful activity and for the activity to be a meaningful part of the prisoner's development and treatment.

A range of regime activities will now be discussed.

### **Work**

Work for prisoners has been central to prison philosophy since the 19<sup>th</sup> century. Traditionally work is one of the main activities in prison. Prisoners should be involved in a range of work activities which are useful and which will equip them with skills that they can use after release. Yet it is difficult to provide all prisoners with full employment in prison.

*Discussion point:*

*Sometimes people who are in prison have had no experience of employment. Should they be required to work while they are in prison? How can they be motivated to work? What sort of work could prisoners do in prison? Should there be any limits on the type of work that prisoners carry out?*

**Principle 8** of the **Basic Principles for the Treatment of Prisoners** states that:

### **Slide 8 – PRISON WORK**

#### **Basic Principles for the Treatment of Prisoners**

'Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labour market and permit them to

contribute to their own financial support and to that of their families.’  
(Principle 8)

The Standard Minimum Rules also cover a number of work related issues in **Rule 71**.

### **Slide 9 – WORKING ARRANGEMENTS**

Prison labour must not be of an afflictive nature’ - Rule 71 (1)

All prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer - Rule 71 (2)

Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day - Rule 71 (3)

So far as possible the work provided shall be such as will maintain or increase the prisoners’ ability to earn an honest living after release - Rule 71 (4)

Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners - Rule 71 (5)

The prisoners shall be able to choose the type of work they wish to perform - within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline - Rule 71 (6)

Forced labour is clearly prohibited under the **International Covenant on Civil and Political Rights (Article 8.3 (a))**:

‘No one shall be required to perform forced or compulsory labour’.

The only qualification is that hard labour is allowed as a punishment if and only if directly imposed by a court (**Article 8.3 (b)**).

Moreover the **International Labour Organisation Convention 105 Article 1 (a)** bans forced labour as a means of political coercion or as a punishment for holding or expressing certain political views.

### **Fitness for work**

Clearly prisoners should only work if they are fit for work.

*Discussion point:*

*Who should decide if a prisoner is fit for a certain type of work? What should happen if a prisoner is claiming to be sick to avoid work?*

Here again a similar procedure should be followed as in free society. A properly qualified doctor may be asked to examine a prisoner upon his or her admission to the prison about his or her health, including possible unfitness for work.

If a prisoner complains of illness and of not being able to work, a doctor should examine him or her and report to the director about his or her being able to work or not. The role of the doctor with respect to this is, however, a delicate.

### **Normal working day**

Providing a normal working day for prisoners represents a significant challenge in practical terms.

*Discussion point:*

*How many hours each day should prisoners work? Should they get any time off work?*

Making the prisoner's working day similar to a working day on the outside is seen as important for rehabilitation and resettlement purposes. However, there are obviously staffing implications, if prisoners' work is to last for a normal working day.

In reality many prisoners have little or no past experience of gainful employment and often lack employable skills. Work in prison can provide opportunities for developing skills.

Some of the work available in prisons may be work to keep the institution functioning. This need not mean that the work is not useful in terms of experience and development of working habits and skills, however rudimentary.

In practice linking work in prison to training and wherever possible to a qualification which is recognised outside prison is one way of using the available work to maximum effect.

For example, cooking or cleaning is generally needed in institutions. If this work is supervised as training work experience, it may provide a prisoner with a certificate of skills or work reference for use after release.

### **Choice**

Choice is an important aspect of assuming responsibility. In reality the choice of work may be severely limited. Where choice does exist, it is important that prisoners be consulted about the options available and about development of work options as this occurs.

*Discussion point:*

*How should prisoners be allocated to work? How can they be consulted about the work they want to do?*

The **organisation and methods of work** in the institutions shall resemble as closely as possible those of similar work outside institutions, so as to prepare prisoners for the conditions of normal occupational life, as **Rule 72 (1)** points out.

In practice prison work and training may run at a loss because of lack of organisation and insufficient demand for product, although there are examples of profitable prison factories in some systems.

While more efficient operations are not ruled out, the SMR seek to ensure that the priority is training rather than exploitation of the prisoner workforce for profit. **Rule 72 (2)** states that:

#### **Slide 10 – TRAINING FOCUS**

*'The interests of the prisoners and of their vocational training, however, must not be subordinated to the purpose of making a financial profit from an industry in the institution'. (Rule 72(2))*

SMR seeks to prevent abuse of prison labour and stimulate remuneration of prisoners by indicating in Rule 73 (1) that:

#### **Slide 11 – PRIVATE CONTRACTORS**

*'Preferably institutional industries and farms should be operated directly by the administration and not be private contractors'.(Rule 73(1))*

However, past experience of the inefficiency of administration-run industries and farms has led some prison systems to turn to private contractors to operate these activities.

*Discussion point:*

*What are the human rights considerations if a private company is allowed to set up a factory in prison and employs prisoners in it?*

The use of private sector companies can lead to abuses of prisoner workers, so **Rule 73 (2)** makes clear that:

### **Slide 12 – REQUIREMENTS OF PRIVATE CONTRACTORS**

‘Where prisoners are employed in work not controlled by the administration, they shall always be under the supervision of the institution’s personnel. Unless the work is for other departments of the government the full normal wages for such work shall be paid to the administration by the persons to whom the labour is supplied, account being taken of the output of the prisoners’. (Rule 73(2))

**Rule 73** therefore removes incentives for work contractors to exploit prisoners’ labour, by defining the parameters within which contracting may occur.

It is clear that there should be a clear contract concerning prisoners’ work. The prison administration remains under an obligation to ensure that the terms of the contract are absolutely explicit and that the prisoner exercises free choice as to whether or not to undertake this work.

### **Health and safety**

Local requirements concerning health and safety at work vary and may be inadequate. The involvement of health and safety experts from the community in inspection of prison institutions will help to keep standards in prison at least level with those outside, as it is stated by **Rule 74**.

### **Slide 13 – HEALTH AND SAFETY**

‘The precautions laid down to protect the safety and health of free workmen shall be equally observed in institutions’.

‘Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workmen’. (Rule 74)

The SMR also seek in **Rule 75** to bring conditions of work inside prison in line with the legal terms and conditions existing locally.

### **Slide 14 – WORKING CONDITIONS**

‘The maximum daily and weekly working hours of the prisoners shall be fixed by law or by administrative regulation, taking into account local rules or custom in regard to the employment of free workmen’.

'The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of rehabilitation and treatment of the prisoners'.(Rule 75)

For example, if prisoners are needed to work overtime, they should be paid more for this. It would be desirable to extend to prisons the remit of local officials charged with inspecting work conditions in the community, as increasingly occurs in some countries.

### **Maximise number of prisoners employed**

Work opportunities for prisoners may be limited by the amount of space, available equipment or plant.

*Discussion point:*

*What can the prison administration do to maximise the number of prisoners who are employed?*

Rotation of prisoners in work shifts can provide maximum use of scarce work facilities.

In practice work opportunities and educational and other activities often coincide in the prison timetable, so that the choices are mutually exclusive.

The SMR imply a reorganisation of an institution's programme of activities so that options are offered on a staggered timetable, to allow prisoners to take up more than one option. This has obvious implications for staffing schedules.

### **Pay levels**

Prisoner pay is in practice often set at a derisory level, if not nonexistent.

*Discussion point:*

*How much should prisoners be paid for working in prison? Should the amount they are paid reflect the profit made? What about those doing domestic duties like cleaning or those doing education – should they be paid?*

The SMR consider prisoner pay a matter of importance:

### **Slide 15 - PAYMENT**

'There shall be a system of equitable remuneration of the work of prisoners'.

‘Under the system prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their families’.

‘The system should also provide that a part of the earnings should be set aside by the administration so as to constitute a savings fund to be handed over to the prisoner on his release’. (Rule 76)

### **Work by Un-sentenced Prisoners**

The sections concerned with prisoners’ work occur in the SMR under the part applicable to sentenced prisoners.

*Discussion point:*

*Should pre-trial detainees (unconvicted and remand prisoners) and civil prisoners be made to work?*

**Rules 89 and 94** indicate the standards relating to work with respect to unconvicted and civil prisoners, respectively.

### **Slide 16 – UNTRIED PRISONERS**

‘An untried prisoner shall always be offered opportunity to work, but shall not be required to work. If he chooses to work, he shall be paid for it’. (Rule 89)

About civil prisoners, **Rule 94** states that “**their (civil prisoners’) treatment shall be not less favourable than that of untried prisoners, with the reservation, however, that they may possibly be required to work.**”

In practice the right of untried prisoners to choose whether or not to work often translates into a denial of the opportunity to work. This generally occurs because work opportunities are limited in most prison institutions and therefore are given first to those prisoners who must work. This places untried prisoners at a distinct disadvantage.

Lack of work for untried prisoners should not result in their being locked up for more time than sentenced prisoners who have work. Providing other activity options for untried prisoners is often seen as impracticable, given the perceived unpredictability of their time in custody. This means that in practice untried prisoners often suffer the worst conditions in terms of lock-up and inactivity. This is unjustifiable.

### **Education**

Education and cultural activities are a fundamental part of human development, and prisoners have the right to take part in education and cultural activities intended for this development.

The right of prisoners to cultural activities is stated in **Principle 6** of the **Basic Principles for the Treatment of Prisoners**:

### Slide 17 – RIGHT TO CULTURE AND EDUCATION

#### Basic Principles for the Treatment of Prisoners

‘All prisoners have the right to take part in cultural activities and education aimed at the full development of the human personality.’(Principle 6)

This right is also underpinned by **Rule 77** of the **Standard Minimum Rules**:

### Slide 18 - EDUCATION

‘Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.’

‘So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.’ (Rule 77)

The central role of education in prisoner programmes in many prison systems rests on:

- The importance of education in the development of the individual and the community;
- The humanising effect of education on prison life;
- The role of education in resettlement;
- The many educational needs of the prisoner population.

*Discussion point:*

*What type and level of education should be available in prisons? What steps can be taken to integrate education in prisons with the education system in the local community?*

A broad definition of education is necessary in prisons. Many prisoners have few educational qualifications and need basic skills. Prison education may be resource

intensive. However, the prisoner population may include some skilled individuals who could be used as a source of peer education or training.

Using the human resources in prisons in this way means overcoming traditional attitudes towards the role of prisoners and staff. Prisoners often benefit greatly when their teachers are not direct employees of the prison administration but teachers normally working for the local education authorities.

As a first step in this direction it may be possible for institutions with limited educational provision to employ prisoners who can read to explain to other prisoners the rules and regulations concerning prisons, including the SMR.

However, teachers trained in adult and remedial education are important in the prison context. Many prisoners have had poor past experiences of learning and require special motivation to build confidence.

Education can be a vital avenue towards renewed self-respect and hope for a positive return to society. Education is also seen as an aid to social reintegration. Links between prison education and education in the general community are to be encouraged.

Where prisoners choose education rather than work they should not be significantly penalized in terms of their pay, or in other ways.

No distinction should be made between women and men as regards the types of education and training activities made available to them, while the **United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)** underline the particular importance of education in juvenile custodial institutions.

### **Religion**

Since freedom of **religious belief** is a basic human right, prisoners should be given the opportunity to avail themselves of such services of their own free will.

*Discussion point:*

*Should all prisoners be able to practice their religion and meet with their spiritual advisor? What about prisoners in distress, solitary confinement, suicide attempts, hunger strike, and severe illness?*

Personal responsibility is at the basis of the standards for care with respect to religion and arrangements are set out in **Rule 41** and **42**, which see religion as a right of the prisoner, not as a duty for the prisoner:

## **Slide 19 – RELIGIOUS REPRESENTATIVES**

‘If the institution contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis’.

‘A qualified representative appointed or approved under paragraph (1) shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his religion at proper times’.

‘Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his attitude shall be fully respected’.(Rule 41)

Rule 42 goes on to deal with the issue of attending religious services:

## **Slide 20 – RELIGIOUS SERVICES**

‘So far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending services provided in the institution and having in his possession the books of religious observance and instruction of his denomination’. (Rule 42)

These rules emphasise that all prisoners have the right to observe the tenets of their religion and to have access to a minister of that religion. Prisoners also have the right to access to qualified representatives of any religion.

The Standard Minimum Rules take a pragmatic position on group worship. Numbers and facilities will dictate whether group worship is practicable for those belonging to minority religions within an institution’s prisoner population.

However, it is important that this numerical difference should lead to as little differentiation as possible. In particular, when a state religion operates, care must be exercised to ensure that the institution does not merely provide one place of worship, adorned with the objects of worship of the State religion.

If worshippers of other faiths have to share the place of worship, religious objects of worship should be removable, so that they do not give offence to other groups.

*Discussion point:*

*Should any limitations be placed on a prisoner's right to practice his/her religion?  
How can the prison authority ensure that specific religious needs (a special diet, clothing or washing at particular times) be met?*

Needless to say, a prisoner who embraces extreme religious convictions which prejudice other people's freedoms, for example one who believes in violence in the name of religion, has no right to exercise those convictions and the prison administration is obliged to protect others from the consequences of such extreme convictions.

### **Recreation and Cultural Activities**

In order to prevent mental deterioration and to improve their level of education and develop their understanding, prisoners should have access to books, classes and cultural activities such as music, drama, art and recreation.

The Standard Minimum Rules go on to make clear that a number of other recreational activities and cultural activities shall be provided in prison:

#### **Slide 21 – RECREATION**

*'Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of the prisoners.'* (Rule 78)

*Discussion point:*

*What type of recreational and cultural activity should be permitted in prisons?  
Should any restrictions be imposed?*

Activities can include: crafts; dancing; singing; acting; musical instruments; putting on performances; yoga; writing stories and poems.

### **Library**

Links with the community also can be improved by prison libraries. In co-operation with outside public libraries they can in particular offer recreation as well as educational activities, individually tailored to the interests, needs and capacities of the prisoners.

**Rule 40** of the SMR reads:

### **Slide 22 – PRISON LIBRARY**

'Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and the prisoners shall be encouraged to make full use of it'.

However, In practice prison libraries are often very limited in space and content and there is inadequate access for prisoners.

The assumption that prisoners will not or cannot make use of libraries, because of illiteracy or lack of interest, is used as an excuse for poor provision. This cannot be justified.

Education programmes and provision of books go hand in hand as a constructive way of using time in prison.

*Discussion point:*

*What core material should always be held in a prison library?*

As a start prison libraries should contain a core of materials concerning prison rules and prisoners rights, including the SMR. Also the national and prison's by-laws should be available.

Libraries are not just a collection of materials; they imply the provision of trained staff who can convey information, explanation and advice. Some times assistance is provided by librarians of libraries outside, or by professional volunteers.

Prison libraries cannot usually afford exhaustive stocks of books. It is therefore important that wherever possible they are linked with library services in the outside community, so that prisoners have maximum access to a wide range of reading material.

Prison libraries need to be aware of the special needs of prisoners who do not speak the main language of the institution. Links with libraries outside prison can help to provide materials in other languages.

### **Sport and Exercise**

Participation in additional activities other than education and work is seen as a normal part of life and as important for prisoners' well-being. In particular, prisoners who do not work in the open air should be permitted daily exercise outside.

*Discussion point:*

*What should be the minimum amount of time that prisoners are permitted in the outside air? Should they be forced to go outside or forced to exercise when outside?*

The SMR acknowledge the importance of time in the open air for all prisoners. **Rule 21 (1)** concerns exercise and sport and makes clear that:

### **Slide 23 – OUTDOOR EXERCISE**

*‘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’.*(Rule 21)

It may be noted, that **Rule 21** creates the impression that prisoners are to be forced to take part in exercise and training. Although prisoners should not be completely free to participate or not, in case of refusal efforts should be made to persuade them.

International norms make clear that all prisoners, including those undergoing cellular confinement as punishment, should have at least one hour of exercise outside every day, where there is enough space to exert themselves physically.

The exercise area in the prison should be secure and easy for staff to observe. Ideally it should be provided with a toilet and drinking water.

In addition **Rule 21 (2)** recognises that young prisoners have particular needs in this respect, partly because they are developing physically and partly because exercise is an important way for them to let off steam and use up their considerable excess of mental and physical energy. There is the implication that the constraints of custody are particularly onerous for the young. They may need more organized exercise, possibly in the form of physical exercise or competitive games to channel their surplus energy into constructive activity.

### **Slide 24 – YOUNG PRISONERS**

*‘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’.*  
(Rule 21 (2))

In practice many prison institutions for young and old recognise the central role of exercise and sport in alleviating the stress of imprisonment.

*Discussion point:*

*What sort of sports and recreational activity should be permitted in prison? What equipment would be necessary?*

Provision of sports and recreational equipment need not place excessive burden on prisons. Access to outside space is important, but a ball can provide the basis for recreation and exercise for a whole group of prisoners. Activity of this kind is useful for health and good relations in the prison, particularly if staff join in. It may also be possible to have a small number of personnel who are qualified physical trainers and can organise activities with prisoners.

### **Offending Behaviour Treatment Programmes**

A number of prison systems have developed what are known as Offending Behaviour Treatment Programmes. These programmes focus on helping the prisoner to change their lives so that they do not re-offend when they are released from prison.

*Discussion point:*

*What made prisoners commit their crimes? What types of behaviour do you think that the programmes should focus on?*

There are many examples of Offending Behaviour Treatment Programmes delivered in prison systems around the world. These include:

- Anger Management Programme; Violence Prevention Programmes; Sex Offender Programme; Drug and alcohol Treatment Programme; Suicide and self harm programme; Pre-Release programme.

These programmes are often delivered in partnership between specially trained prison officers, psychologists and NGOs.

## Slide 25 – SMALL GROUP ACTIVITY

### Small Group Activity

**1. What do the relevant provisions in the Law of Reform and Rehabilitation Centres have to say in relation to the following:**

- *Assessing prisoner needs*
- *Work, working conditions and arrangements*
- *Education and library*
- *Recreational, social and cultural activities*
- *Religion*
- *Sports and exercise*

**2. Do you think that there are any differences when compared to the international standards and norms – both higher level of provision and shortfalls?**

**3. Are the provisions in the law fully and effectively implemented? If not, what could be done to ensure compliance?**



**SESSION 6**  
**ORDER and DISCIPLINE**

**Slide 1 – TITLE**

**ORDER AND DISCIPLINE**

**Duration:**

2 Hours

**Purpose:**

The purpose of this session is to highlight that prison authorities have a responsibility to ensure the physical safety of prisoners, staff and visitors. This means that prisons should be places where there is good order, which involves much more than control.

When a prisoner refuses the legitimate rules of a prison there has to be a formal disciplinary procedure to establish guilt and impose appropriate punishment. A further purpose to this session is to underline that this procedure should observe the principles of justice.

**Key Points:**

**Slide 2 – KEY POINTS**

- Prisons should be safe environments for all who live and work in them, and no one in a prison should fear for their physical safety.
- Order and discipline should be firm, but no more than is necessary for safe custody.
- All disciplinary offences and punishments must be specified by law or by published legal regulations.
- All cruel, inhuman or degrading punishments are completely prohibited, including corporal punishment or placing the prisoner in a dark cell.
- Prisoners who are subject to disciplinary action should have the right of appeal to a higher authority.

**Key principles**

**Article 3** of the **United Nations Universal Declaration of Human Rights** provides that:

### Slide 3 - United Nations Universal Declaration of Human Rights (Art 3)

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

***Discussion point:***

*What duties do you think that these Rights create for the prison administration and staff?*

Prison authorities have an obligation to impose such security restrictions as are necessary to ensure that prisoners do not escape from lawful custody.

In addition, prison authorities also have an obligation to ensure that prisons are safe places, where all concerned can go about their daily business without fear for their physical well-being.

The level of control over the daily lives and movement of prisoners must not be more than is necessary to meet those requirements. All of this can be ensured with a prison environment that is a safe place.

It is a primary duty of every prison administration to ensure that prisons are safe for the prisoners who are compelled to reside in them and the staff who have to work in them.

Both prisoners and staff should be safe from any kind of violence and threats to life and health no matter from whence they come. The community too has a right to expect that its members shall be safe from predatory activities by prisoners.

***Discussion point:***

*What do you think are the three main elements in ensuring that prisons are safe places?*

There are three main elements in ensuring that prisons are safe places:

#### **Slide 4 – ORDER, DISCIPLINE, and SECURITY**

**Order:** Meaning that staff and prisoners are safeguarded by the fact that prisons are places where there is order and control, rather than chaos.

**Discipline:** Occasionally good order will break down and breaches of discipline will have to be punished.

**Security:** Covered in the next session, appropriate security means that the prison authorities safeguard the public by carrying out the judgment of a court to deprive certain people of their liberty.

## **Order**

The ways in which the disciplinary system and grievance mechanisms in prisons are organised and administered are crucial for the safeguarding of the rights of prisoners as well as the maintenance of peace and harmony in any prison system.

The purpose of the disciplinary and grievance mechanisms in prison is, of course, to maintain or restore order and safety in the institution. However, the system will be unable to achieve this if it relies entirely on force, intimidation and coercion.

### ***Discussion point:***

*How can prison staff seek to positively influence and enlist the willing co-operation of prisoners?*

Prison staff can and should seek to positively influence and enlist the willing co-operation of prisoners through humane leadership and good example. Very often, it will be possible to elicit good behaviour from a prisoner who appreciates that he or she is being treated as a mature human being with due respect and dignity.

It is not inappropriate for prison staff to maintain friendly and healthy relations with prisoners. On the contrary, that is one of the more effective means of maintaining peace and security in prisons – often known as dynamic security, covered more fully in Session 7.

The disciplinary rules, including complaints and review procedures, regulating prison life affect the conduct of prisoners and prison staff alike in their relationship with one another.

It is necessary for the disciplinary and grievance mechanisms in prisons to enjoy the confidence of prisoners, prison staff and the community by being seen to be both fair and effective.

Prison disturbances such as hunger strikes, jail breaks, prison mutinies, riots and even suicides, are often evidence that the prisoners feel shortchanged by the way in which the applicable disciplinary rules are administered or that they do not have confidence in the grievance mechanisms available.

Complaints and grievances will be dealt with more fully in Session 10.

## **Discipline**

It is important that prisoners be made aware of the rules and regulations that affect them in prison.

Occasionally, a small minority of prisoners may not accept or observe the rules of the prison. When this happens there have to be special measures that need to be adopted.

The disciplinary system is one method of maintaining order in prisons. It is most effective when it is used to restore a grievous breach of discipline in prison order and when other means prove unsuitable for achieving the objective of restoring control and discipline.

**Rules 27-30** of the **Standard Minimum Rules** define the framework for discipline in prisons.

The first key rule of the **Standard Minimum Rules** relating to order and discipline is **Rule 27**, which requires that:

### **Slide 5 – MAINTAINING DISCIPLINE AND ORDER**

*'Discipline and Order be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.'* (Rule 27)

This rule represents a categorical imperative incumbent upon all prison administrations as the necessary condition for the implementation of all other Rules.

As previously mentioned, nothing can be more important than the necessity of ensuring that prisons are safe environments - safe for prisoners, safe for staff and safe for the community.

### **Breach of Discipline**

A breach of disciplinary rules in prison may be dealt with in a number of ways.

#### ***Discussion point:***

*What are the options available to the prison administration and staff to deal with a breach of the disciplinary rules?*

There are a number of ways to deal with a breach of disciplinary rules:

## Slide 6 – WAYS OF DEALING WITH BREACHES OF RULES

1. Informal advice to the prisoner to keep to the Rules;
2. Formal disciplinary process by the prison administration internally
3. where the breach is also a crime under law, by the formal sanction of normal criminal prosecution.

### **Informal resolution**

It is neither practical nor desirable for every breach of prison rules to attract formal disciplinary action. Very often, an informal caution, friendly advice and encouragement or an appropriate expression of disapproval will be enough to keep an offending prisoner under control. It is only when these fail or are inadequate or considered inappropriate that the formal disciplinary sanctions should be employed.

### **Criminal prosecution**

It will also be most unhealthy for every other breach of the prison rules that qualified as a crime under general criminal law to be prosecuted as such.

#### ***Discussion point:***

*Under what circumstances do you think that it would be appropriate to refer cases to the police to investigate? What criteria should be used? Who should decide whether to refer a case?*

It is inconceivable, for example, that a prisoner who steals a bar of soap in order to shower properly would be prosecuted for theft in a court.

Only the most serious cases deserve to be submitted to the criminal prosecution. Again, the prison administration and prison staff will be responsible for deciding when to refer a case for criminal prosecution.

Prison authorities should make prison staff aware of relevant guidelines and principles governing staff discretion in deciding when and when not to submit breaches of person rules for criminal prosecution.

If the breach of discipline is prosecuted as a crime, the prisoner is entitled to all the legal safeguards and facilities necessary to defend himself or herself in the case. In particular, he or she is entitled for this purpose to unimpeded access to his or her lawyer or to any other legal representative or relative.

## **Internal disciplinary mechanisms**

If a prisoner is believed to have committed a breach of prison discipline, his or her case should be heard under a set of procedures that have been publicised in advance.

### ***Discussion point:***

*What do you think should be the key elements of an internal disciplinary process in order to ensure the upholding of human rights?*

**Principle 30 (1)** of the **Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment** requires that such procedures should specify the following:

### **Slide 7 – PUBLISHED RULES AND PROCEDURES (1)**

#### **Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (Principle 30 (1))**

- (1) The types of conduct of the detained or imprisoned person that constitute disciplinary offences during detention or imprisonment;
- (2) The description and duration of disciplinary punishment that may be inflicted; and
- (3) The authorities competent to impose such punishment.

That this should be defined in written law and regulations is also stated by **Rule 29** of the Standard Minimum Rules:

### **Slide 8 - PUBLISHED RULES AND PROCEDURES (2)**

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

- (a) Conduct constituting disciplinary offence
- (b) The types and duration of punishment which may be inflicted
- (c) The authority competent to impose such punishment.' (Rule 29)

Prisoners and staff alike should know about the rules, it is not good enough just to have them. Thus, a prison authority has a responsibility to acquaint and provide

prisoners as well as prison staff with the applicable disciplinary rules at the point of admission to the prison.

**Rule 30** goes on to state that:

### **Slide 9 – OPERATING THE RULES**

‘Prisoners should ‘never punished twice for the same offence’,

‘No prisoner shall be punished unless he has been informed of the offence alleged’. (Rule 30)

One further safeguard is the requirement of **Rule 30 (2)** that prisoners should be given an opportunity to know and to defend themselves against the charges before being disciplined:

### **Slide 10 - DEFENCE**

‘... Given proper opportunity of presenting his defence’. (Rule 30 (2))

Prisoners must not be punished on the basis of unsubstantiated rumours supplied by informants.

Prisoners have a right to an opportunity to respond to any adverse reports made about them especially where such reports can form the basis of possible disciplinary action. Prison authorities have a corresponding duty to notify the prisoners of such reports when they are received.

In addition, and in order to regulate the exercise of the power to discipline prisoners, it is essential that the exercise of the power to discipline prisoners should be exercised by a defined category of senior prison personnel. **Rule 30 (2)** states:

### **Slide 11 – EXAMINATION OF THE CASE**

‘The competent authority shall conduct a thorough examination of the case’.

The prison administration should maintain a written minute of any occasion in which the disciplinary power is invoked against any prisoner.

It is also essential for the rules to identify and state the channels of appeal or review open to a prisoner who may wish to challenge the disciplinary procedure or measure.

The Rules should also be reviewed and updated periodically to correspond with the current legal standards.

It is very important that prisoners who are testifying before formal, internal, disciplinary or inspection proceedings should not be subjected to intimidation or harassment. This would not only hamper the fairness of the process but also undermine confidence in the grievance mechanisms in the prison, with possible adverse consequences on security.

***Discussion point:***

*How can the prison administration prevent harassment and intimidation of prisoner witnesses by prisoners or staff?*

It is only in very serious cases involving a potentially heavy penalty or complicated points of law that the prison authorities may favourably consider granting the prisoner legal representation. To avoid arbitrariness in the exercise of this discretion, the conditions under which legal representation may be granted in disciplinary hearings should be clearly defined in the prison regulations or manual.

**Punishment**

If found guilty, the prisoner may be subjected to a range of punishments which will be laid down in the procedures.

The punishment should always be just and proportionate to the offence in question, and should be the consequence and culmination of the disciplinary process imposed after a complaint or allegation against a prisoner is established.

Some prison systems maintain order not through such formal disciplinary sanctions but through the fear prisoners have of the unregulated measures that may be used by the prison staff against prisoners that they may regard as recalcitrant.

***Discussion point:***

*What form can these unregulated measures take? How can the prison administration prevent them from being used?*

The disciplinary rules established under the Standard Minimum Rules and other relevant international standards do not permit this practice.

It is not open to prison officials to justify cruel treatment of prisoners by recourse to law or to the defence of superior orders.

On this, **Article 5** of the **United Nations Code of Conduct for Law Enforcement Officials** provides that:

## Slide 12 - United Nations Code of Conduct for Law Enforcement Officials

'No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders or exceptional circumstances such as a state of war, or threat of war, a threat to national security, internal political instability or any other public emergency as a justification for torture or other cruel, inhuman or degrading treatment or punishment'. (Article 5)

The applicable human rights standards governing punishment in prison emphasise a principle of proportionality so that punishment must never in any event be disproportionate to the breach committed.

As previously mentioned, both **Rule 29 (b)** of the **Standard Minimum Rules** and **Principle 30 (1)** of the **UN Body for the Protection of All Persons Under Any Form of Detention or Imprisonment** require that the form and duration of punishment shall be defined in written law or regulations.

### Forms of Punishment

In practice, the forms of punishment that may be imposed for breach of prison discipline are many and varied.

#### ***Discussion point:***

*What forms of punishment do you think are acceptable under international law and standards? What do you think would not be acceptable?*

A common form of punishment is solitary confinement.

**Principle 7** of the **UN Basic Principles for the Treatment of Prisoners** states that:

## Slide 13 - Basic Principles for the Treatment of Prisoners

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

And **Rule 32 (1)** of the **Standard Minimum Rules** affirms that:

## Slide 14 – PUNISHMENT BY CLOSE CONFINEMENT

'Punishment by close-confinement... shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.'

Prolonged solitary confinement is not legal and the **Human Rights Committee of the United Nations** stated that prolonged solitary confinement of the detained or imprisoned may amount to prohibited acts of torture.

Solitary confinement should also not be imposed on any prisoner for an indeterminate period. Repeated solitary confinement is illegal too. There is a tendency for it to become easy to send a prisoner who has been in solitary confinement before, to do it again without substantial justification. This needs to be discouraged because of the potentially harmful effects that solitary confinement may have on the physical and mental health of the prisoner.

**Rule 31** of the **Standard Minimum Rules** states that:

#### Slide 15 - **CRUEL, INHUMAN OR DEGRADING PUNISHMENTS**

‘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.’ (Rule 31)

Corporal punishment is then expressly prohibited, and is placed in the same class as cruel, inhuman and degrading punishment.

It is not lawful then to beat or flog prisoners as part of punishment for a breach or prison discipline.

Under **Rule 31**, sensory deprivation is also prohibited. It is not permitted for prison authorities to lock up prisoners in cells with artificial light and inadequate ventilation as punishment for breach of prison discipline or, indeed, for any other reason.

Instruments of restraint are completely prohibited by the **Standard Minimum Rules**. **Rule 33** states that:

#### Slide 16 – **INSTRUMENTS OF RESTRAINT**

‘Instruments of restraint, such as handcuffs, chains and strait-jackets, shall never be applied as punishment. Furthermore, chains or irons shall not be used as restraints.’ (Rule 33)

Reduced diet is also prohibited under **Rule 32 (1)**, except in cases where a medical officer has examined the prisoner and certified in writing that he or she is fit to sustain it. The international norm today however, is to regard reduced diet as an improper form of punishment.

Loss of an opportunity for early release is frequently used as a form of punishment. Although this is a suitable and popular form of punishment for breach of prison discipline, it is important to avoid arbitrariness, that this form of punishment in prison is limited to only the most serious or repeated offences.

It is also good practice that the extent of loss of opportunity for early release be strictly defined so as not to make it indefinite.

***Discussion point:***

*So in summary, can anyone tell me when a punishment would always be unacceptable?*

Punishment is always unacceptable if it is:

**Slide 17 – UNACCEPTABLE PUNISHMENT**

- (a) Disproportionate to the act committed or to the objective of ensuring discipline and ordered community life
- (b) Unreasonable
- (c) Unnecessary
- (d) Arbitrary
- (e) Intended to produce undue pain and/or suffering

Finally, a prisoner should never be doubly punished for the same offence. **Rule 30 (1)** specifically states that:

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

Very often prisoners are transferred from their cell or from one prison to another after serving punishment for breach of prison discipline.

This rule makes it unacceptable to combine punitive transfers with one or more other forms of prison punishment.

Additional disciplinary measures other than those logically and directly related to the form of punishment chosen should be avoided and care should be taken to minimise any additional consequences of the punishment on other rights or entitlements of the prisoner.

**Review of Disciplinary Punishment**

***Discussion point:***

*What reasons are there for giving prisoners a right of review of their punishment?*

It is essential for the maintenance of orderly community life in prisons that prisoners who are dissatisfied with the ways in which the powers and procedures for maintaining discipline in prison have been administered or exercised in relation to them should have avenues for complaint.

Review is, therefore, needed for two reasons, namely to ensure that prison staff do not abuse the powers and procedures through which they exercise disciplinary control over prisoners and, secondly, to rectify any abuses or injustices that occur in the administration of discipline in prisons.

The prisoners deserve to be made aware of the avenues for review that exist and be encouraged to use them.

The need for some form of official review of the exercise of the disciplinary and related powers over prisoners is contained in **Article 8** of the **Universal Declaration of Human Rights**:

#### **Slide 18 – REVIEW OF EXERCISE OF DISCIPLINARY POWER**

##### **Universal Declaration of Human Rights**

‘Everyone has the right to an effective remedy by the competent national tribunal for acts violating the fundamental rights granted to him by the constitution or by law.’ (article 8)

This need is reinforced and reaffirmed in **Article 2 (3)** of the **International Covenant on Civil and Political Rights**, in which States undertake an obligation to:

#### **Slide 19 – EFFECTIVE REMEDY**

##### **International Covenant on Civil and Political Rights**

‘Ensure that any person whose rights or freedoms as herein recognised are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.’

‘Ensure that any person claiming such a remedy shall have his right thereto determined by a competent judicial, administrative or legislative authority, or by any other competent authority provided for by the legal system of the state and to develop the possibilities of judicial remedy.’

‘Ensure that the competent authorities shall enforce such remedies when granted.’ (Article 2(3))

The prison administration is responsible for the internal review process. This would ordinarily be part of the complaints mechanism that will be highlighted by Session 8.

## **Use of other prisoners in a disciplinary capacity**

One further point of importance stems from **Rule 28 (1)**, which makes clear that:

### **Slide 20 – USE OF PRISONERS IN DISCIPLINARY CAPACITY**

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

Only prison staff can exercise disciplinary powers over prisoners. **Rule 28 (1)** clearly prohibits conferring disciplinary powers on certain categories and classes of prisoners.

It obliges prison administration to discourage the widespread practice in many countries of having structured cell leadership organised under prisoners who have the possibility of exercising disciplinary powers over fellow prisoners.

### **Slide 21 – SMALL GROUP WORK**

#### **Small Group Activity**

- 1. *What do the relevant provisions in the Law of Reform and Rehabilitation Centres have to say in relation to the following:***
  - *Order and Control***
  - *Disciplinary system***
  - *Punishments***
- 2. *Do you think that there are any differences when compared to the International Standards and Norms – both higher level of provision and shortfalls?***
- 3. *Are the provisions in the law fully and effectively implemented? If not, what could be done to ensure compliance?***



## SESSION 7

### SECURITY

#### Slide 1 – TITLE

#### SECURITY

##### Duration:

1 Hour

##### Purpose:

The purpose of this session is to introduce the three types of security in prison: physical security, procedural security and dynamic security. The purpose is to show too that prison staff have a clear responsibility to protect the public by ensuring that prisoners do not escape from lawful custody, but there should be a balance between security and rehabilitation. Prison staff should give a high priority to helping prisoners rehabilitate themselves.

##### Key Points:

#### Slide 2 – KEY POINTS

- 'Physical Security' is walls, bars, locks and any other technological devices and perimeter sterile areas.
- 'Procedural Security' is proper categorisation and assessment, and includes searching procedures.
- 'Dynamic Security' is knowing what is going on in the prison based on positive relationships between staff and prisoners, and on keeping prisoners active.
- Use of force, including firearms, to prevent escape should be employed only when less extreme means are insufficient to prevent the escape.

##### Risk Assessment

In general terms, security refers to the actions that a prison needs to take in order to prevent prisoners from escaping or causing harm to others.

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.

##### ***Discussion point:***

*What types of risk do you think that prisoners may pose?*

There are different types of risk, such as risk of escape, risk of harming other prisoners, harming themselves or harming prison staff. The security measures to which prisoners are subject should be the minimum necessary to achieve their secure custody.

Different levels of risk call for different levels of security.

**Rule 63 (2)** of the **Standard Minimum Rules** states that:

### **Slide 3 – APPROPRIATE SECURITY LEVELS**

*'It is desirable to provide varying degrees of security according to the needs of different groups.'* (Rule 63 (2))

The level of security that is necessary will vary according to the risk of escape posed by individual prisoners.

***Discussion point:***

*What factors do you think will have an impact on the risk or likelihood of a prisoner attempting to escape?*

Some prisoners would present a high degree of risk to public safety if they were to escape, thus it should be made extremely difficult for them, if not impossible.

Some prisoners would present no threat to public safety if they were to escape. They should be held in low-security prisons.

Separating the low, medium and high-risk offenders is typically used as a means of effective prison management.

Holding prisoners at the lowest appropriate level of security 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 – the lower level the security the more humane the treatment is likely to be - 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. It makes financial sense not to have prisoners in a higher security category than is necessary.

Classification systems, which we spoke about in Session 4, often form the basis for security and control restrictions. Without classifications, security tends to be geared towards prisoners posing the highest risk of escape and control towards prisoners

posing the highest risk of disruption. This may result in the imposition of unnecessary restraints on individual prisoners.

When classification is relatively crude, some prisoners may still be restricted unnecessarily, but at least the majority or the prisoner population is not limited by maximum security and control restrictions that are usually justifiable only for a minority.

### **Physical Security**

Prison security takes many forms, as we discussed in Session 6.

#### **Slide 4 – TYPES OF SECURITY**

- Physical Security
- Procedural Security
- Dynamic security

The first of which is physical security.

***Discussion point:***

*What do you think I mean by physical security? Can you give me some examples of physical security in a prison?*

Physical security is everything from walls, bars, windows and doors, to locks, cameras and keys.

In designing the physical aspects of security, a balance needs to be found between the best ways of achieving the required security level, with the need to respect the dignity of the individual. For example, the right architectural designs can ensure that cell windows are secure, while at the same time adhering to the standards for access to natural light and fresh air.

Security aids such as cameras by definition intrude on personal privacy, so when decisions are made about where they should be placed there needs to be a balance between legitimate security requirements and the obligation to respect individual privacy.

***Discussion point:***

*Are there areas in the prison that should not be covered by cameras? What about the inside of rooms and cells? What about toilets and washing areas? Does the same right of personal privacy apply if a prisoner is suicidal?*

The **Standard Minimum Rules** pay particular attention to the physical security instruments such as chains. **Rule 33** states that:

### **Slide 5 – PHYSICAL SECURITY INSTRUMENTS**

'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.' (Rule 33)

### **Procedural Security**

Procedural security relates to the procedures that have to be followed to prevent escape.

***Discussion point:***

*Can you give me some examples of security procedures? Which do you think are the most important security related procedures?*

Among the most important procedures are those concerned with searching, both of prisoners and places.

A clearly understood set of procedures that describe in detail the circumstances in which searches should be carried out, the methods used and their frequency should be available in all prisons. These procedures must be designed to prevent escape and also to protect the dignity of prisoners and their visitors.

There should be procedures for regularly searching all places where prisoners live, work and congregate. These should include searches of living accommodation to make sure that physical security features have not been tampered with.

Personal property may have to be searched from time to time. Prison staff should carry out these searches in such a way as to detect any escape attempt or contraband, while at the same time respecting the dignity of prisoners and showing respect for their personal possessions.

Individual prisoners, particularly those on medium to maximum security restrictions will also have to be personally searched on a regular basis to make sure they are not carrying items which could be used in escape attempts or to cause injury, or items of contraband.

There should be a detailed set of procedures which staff have to follow when carrying out personal searches.

***Discussion point:***

*What issues do you think should be covered in the procedures to ensure that a prisoner's rights are upheld?*

The procedures should:

**Slide 6 – SEARCHING**

- Define the circumstances when searches are allowed
- Ensure that prisoners are not humiliated by the process
- Stipulate that prisoners should be searched by staff of the same gender
- Prohibit staff from carrying out internal searches of a prisoners body

There should also be clear procedures for making sure visitors do not breach reasonable security requirements, such as the searching of visitors. These procedures have to see that visitors are not prisoners and the obligation to protect the security of the prison has to be balanced against the rights of visitors to their personal privacy.

It is important to recognise too that prison staff and contractors may also pose a threat to security by smuggling into the prison banned or illegal material.

***Discussion point:***

*What arrangements do you think should be put in place to prevent and detect smuggling by staff and contractors, whilst at the same time ensuring their Human Rights?*

Again, they should also be subject to the appropriate searching procedures. These types of arrangements will also make it less likely that staff will be put under pressure by prisoners and others to bring banned items into the prison.

Some other types of procedural security include roll call at specific times of the day, and selective monitoring of mail and telephone calls. The need to hold prisoners in

appropriate conditions of security needs to be balanced with the right to maintain contact with the outside world, which is discussed in Session 9.

### **Dynamic Security**

The notion of security involves much more than physical barriers and procedural searches. This additional element is known as Dynamic Security.

***Discussion point:***

*What do you think is meant by dynamic security? Can you give me some examples of dynamic security in a prison?*

Security also depends on an alert staff who interact with prisoners, who have an awareness of what is going on in the prison and who ensure that prisoners are kept active in a positive way. This is often described as 'dynamic security'.

The concept of dynamic security includes:

#### **Slide 7 – DYNAMIC SECURITY**

1. Developing positive relationships with prisoners.
2. Diverting prisoners' energy into constructive work and activity.
3. Providing a decent and balanced regime with individualised programmes for prisoners.
4. Establishing an adequate ratio of staff to prisoners.

Placing an emphasis on the need for prison staff to establish good relationships with prisoners is key to 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 prisoners.

It is essential then to remember that security is not just a matter of walls, locks and keys, but that security is strengthened when staff know the prisoners for whom they are responsible and mix with them on a daily basis.

As the purpose of prison is not just to remove offenders from society, but also to try and ensure as far as possible their rehabilitation, there should be a balance between security and those programmes that are designed to enable prisoners to reintegrate into society.

## Use of Force

In a prison, tension is - inevitably - never far away. No matter how dedicated its staff, it cannot be denied that the majority of prisoners are being held against their will.

A consequence is that prisoners may cause disturbances. They may simply resent detention as such, or their anger may be directed against rules or against the staff. It is important for staff to remain aware of their powerful position.

Staff must bear this in mind, and must treat prisoners as fellow human beings. This means that they must not exercise more power than is reasonable and proper in a given situation.

The above applies even more to the use of force - a very fundamental form of the exercise of power. Before using force, an officer should always establish whether the desired objective can be achieved by other means.

If these other means are not successful, the degree of force used should be appropriate to the situation in question – as SMR Rule 54 makes clear:

### **Slide 8 – USE OF FORCE**

‘Officers of the institutions shall not, in their relations with the prisoners, use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations’.

‘Officers who have recourse to force, must use no more than is strictly necessary and must report the incident immediately to the director of the institution’. (Rule 54 (1))

These are the basic principles of subsidiarity and proportionality. They should always be applied when force is used.

#### ***Discussion point:***

*What measures can the prison administration take to ensure that these principles are applied? What can they do to ensure that staff are able to defend against unfounded allegations by prisoners?*

Instructions on the use of force and particularly on restrictions in use of force should always be incorporated in prison rules, and staff should be well trained in this field as stated in Rule 54 (2):

## Slide 9 – SPECIAL RESTRAINT TRAINING

'Prison officers shall be given special physical training to enable them to restrain aggressive prisoners'. (Rule 54 (2))

To prevent the indiscriminate and inappropriate use of force, officers should be required to account to their immediate head and to the director following any incident involving force. They should do so both orally and in writing, describe the incident and justify the use of force.

There are special situations, where use of force and the risk of ill treatment easily can occur, such as riots, group fights and collective disturbance of order. It is of utmost importance, that we are aware of how critical these situations are with respect to possible ill-treatment.

It is also important that instructions are made, which not only explain how to deal with these situations and what procedures should be followed, but which also give guidelines on how to prevent excessive use of power and ill-treatment. Moreover, such incidents often deteriorate the prison climate and can carry with them tensions between prisoners and staff for quite a long time.

These are periods in which new incidents easily can be ignited.

***Discussion point:***

*In what situations do you think has research shown that abuses of prisoners' rights are most likely to occur?*

Such situations most likely occur:

- After incidents such as riots and hostage takings, especially when prison personnel have been injured;
- When a prison moves from a normal situation to a lock-down. In such situations outsiders are often prevented from coming in, the prison is even more closed off from the community and the standard protections, notably visibility and proper supervision, cease to be available;
- Experience also shows, that risks of undue force, disrespect and ill treatment is imminent, when prisoners are between prisons in transport vehicles and in the case of people with 'weak complaining power' for example, foreigners and mentally ill prisoners.

There are many ways of resolving issues before use of force.

***Discussion point:***

*What other means do you think are available to resolve protests before having to resort to the use of force?*

Discussing problems with prisoners as much as possible on a footing of equality often has proven to be a very successful way of solving problems or at least creating mutual understanding, respect and tolerance. It has been shown that such discussions can prevent the situation of using force and more force from both sides.

Only if such discussions do not solve the problem prison director should consider:

- Internal transfers
- Disciplinary punishments
- Isolation of violent prisoners

**Use of Firearms**

The **Standard Minimum Rules** also take into account the use of firearms.

To prevent an escalation of violence, it is a general principle that members of staff in direct contact with prisoners should be unarmed.

An officer with a gun might be tempted to use it inappropriately, or prisoners might get hold of such weapons. Rule 54 (3) covers this point:

**Slide 10 – USE OF FIREARMS (1)**

*‘Except in special circumstances, staff performing duties which bring them in direct contact with prisoners should not be armed. Furthermore staff should in no circumstances be provided with arms unless they have been trained in their use’. Rule 54 (3)*

Essentially, use of force, including use of firearms, to prevent escape should be employed only when less extreme means are insufficient to prevent escape.

**Principle 9** of the **Basic Principles on the Use of Force and Firearms by Law Enforcement Officials** requires that:

**Slide 11 - USE OF FIREARMS (2)**

*‘Law enforcement officials shall not use firearms against person except... to prevent his or her escape, and only when less extreme means are insufficient to achieve.’ (Principle 9)*

## Ways of Preventing Ill-Treatment

### ***Discussion point:***

*What means do you think are available to prevent ill-treatment, excessive use of force and even torture?*

Possible means include:

**Access:** many people from outside coming in all the time and being able to see every part of the prison and every prisoner.

**Rules:** a framework of rules within which anything that could lead to serious ill-treatment, e.g. solitary confinement, use of restraints, is regulated; a system for checking that the rules are kept and disincentives for those found not keeping the rules, e.g. by not having them promoted.

**Commitment:** a clear lead from the top on the ethical framework within which detaining people is done.

## **Slide 12 – SMALL GROUP ACTIVITY**

### **Small Group Activity**

- 1. What do the relevant provisions in the Law of Reform and Rehabilitation Centres have to say in relation to the following:**
  - ***Physical security***
  - ***Procedural security***
  - ***Dynamic security***
  - ***Use of force***
  - ***Use of firearms***
  - ***Ways of preventing ill-treatment***
  
- 2. Do you think that there are any differences when compared to the International Standards and Norms – both higher level of provision and shortfalls?**

## SESSION 8

### HEALTH CARE and MEDICAL SERVICES

#### Slide 1 – TITLE

#### HEALTHCARE and MEDICAL SERVICES

##### Duration:

2 Hours

##### Purpose:

The purpose of this section is to give an overview of healthcare rights that prisoners have and of the role all prison staff have in contributing to healthy prisons.

##### Key points:

#### Slide 2 - KEY POINTS

- High standards of physical and mental health are rights of all prisoners.
- Access to the countries available health services should be free.
- Only medically qualified persons should make decisions regarding prisoner's health.
- No prisoner should be subjected to experimentation, either scientific or medical, which is detrimental to his or her health.

#### Importance of Healthcare in Prisons

Physical and mental health of prisoners is one of the most important aspects of life in prison.

##### ***Discussion point:***

*Why do you think this is the case? What issues do you think are relevant to the healthcare given to prisoners?*

Healthcare affects how people live, work and behave. This has particular significance in the case of prison staff and prisoners.

By its nature the condition of imprisonment can have a damaging effect on both the physical and mental wellbeing of prisoners. Prison administrations have a responsibility, therefore, not simply to provide medical care but also to establish conditions that promote the wellbeing of both prisoners and prison staff. Prisoners should not leave prison in a worse condition than when they entered.

Prisoners often arrive in prison with pre-existing health problems. Prisoners often come from the poorest sections of society and their health problems will reflect this. They will bring with them untreated conditions, addictions and also mental health problems. These prisoners will need particular support, as will those many others whose mental health may be significantly and adversely affected by the fact of imprisonment.

In many countries, a large percentage of those in prison are infected with transmissible diseases, such as tuberculosis, hepatitis and HIV/AIDS. Prison administrations have a responsibility to those who come into prison – prisoners especially, but also staff and visitors - to ensure that they are not exposed to risks of infection. A failure to manage these conditions will mean that they become community health problems as a result of contact between the prison and wider society, through staff and visitors, and as a result of the eventual release of prisoners.

### **Health Care Rights**

The right to health is a basic human right. **Article 12, paragraph 1**, of the **International Covenant on Economic, Social and Cultural Rights** highlights:

#### **Slide 3 - RIGHT TO HEALTH**

##### **International Covenant On Economic, Social And Cultural Rights**

‘the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.’ (Article 12(1))

And the **Universal declaration of Human Rights, Article 25**, states that:

#### **Slide 4 - RIGHT TO MEDICAL CARE**

##### **Universal declaration of Human Rights**

‘Everyone has the right to a standard of living adequate for the health and well-being of himself and his family... including... medical care and necessary social services.’ (Article 25)

Alongside these fundamental rights of all humans, prisoners have additional safeguards because of their status.

#### ***Discussion point:***

*What are these safeguards? What additional health care rights might prisoners have?*

Just because a person is in prison, they should not be subjected to a lower standard of health care than that provided in society. The State takes on a responsibility to provide sufficient health care when it deprives a person of their liberty. It is not tolerable for imprisonment to add sickness, physical or mental suffering to the punishment.

The State's responsibility is perhaps even greater when considering that the situation of imprisonment in itself, to a greater or lesser extent, is damaging to people's physical and mental health.

It is often asked what the standard of health care in prison should be. **Principle 9** of the **Basic Principles for the Treatment of Prisoners** states that:

### **Slide 5 - ACCESS TO HEALTHCARE**

#### **Basic Principles for the Treatment of Prisoners**

'Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.'(Principle 9)

The government has full responsibility for imprisoned people who are placed under its authority, thus the quality should be as good as it can be.

It is not for anyone to judge whether a prisoner 'deserves' health care or not.

#### **Examination on admission**

**Principle 24** of the **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment** states that:

### **Slide 6 - MEDICAL EXAMINATION AND TREATMENT**

'A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided wherever necessary. This care and treatment shall be provided free of charge.'(Principle 24)

The issue of medical screening on first admission was discussed in Session 4.

#### ***Discussion point:***

*Can you remember the reasons why prisoners should be medically examined on admission?*

There are several important reasons why prisoners should be offered medical examinations when they first arrive in prison:

- It enables medical staff to identify any pre-existing medical conditions and ensure that appropriate treatment is provided.
- It allows appropriate support to be provided to those who may be suffering the effects of the withdrawal of drugs.
- It will help to identify any injuries which may have been sustained during initial detention.
- It will allow trained staff to assess the mental state of the prisoner and provide appropriate support to those who may be vulnerable to self-harm.

Also, as it is not always possible to ensure that a doctor is able to carry out a medical examination of all prisoners as soon as they are admitted to prison, they should at least be seen by a qualified nurse who can report any concerns.

As part of the admissions procedure too, prisoners should receive clear information on the arrangements for healthcare in prison.

**Principle 24** of the **Body of Principles** also requires that medical care has to be provided free of charge. It is an important principle of prison health care that all necessary medical care and treatment should be provided free of charge. This may be a particular problem when there are increasing numbers of long-term prisoners who require expensive treatment for complex or terminal conditions.

Prison administrations will need to ensure that they make suitable arrangements which are based on the needs of prisoners and that the required treatment is not restricted on the grounds that it is deemed to be too expensive merely because the patient is a prisoner.

**Rule 22 (1)** of the SMR requires that:

#### **Slide 7 - LINK BETWEEN PRISON AND COMMUNITY HEALTHCARE**

*'The medical services should be organised in close relationship to the general health administration of the community or nation.'* (Rule 22(1))

In all aspects of health care prison authorities should seek to establish and maintain close links with health service providers outside the prison.

***Discussion point:***

*Why do you think that there should be close links between prison and community healthcare provision?*

This will not only allow for a continuity of treatment but will also enable professional standards and in training for medical personnel.

### **Individual Treatment**

Individual prisoners are entitled to regular, confidential access to appropriate levels of medical consultation which is at least the equivalent to that available in civil society.

An important point is that any medical judgements and treatments should be based on the needs of the individual prisoner and not on the needs of the administration.

**Rule 62** of the **Standard Minimum Rules** states that:

#### **Slide 8 - INDIVIDUAL TREATMENT**

*'The medical services of the institution shall seek to detect and shall treat any physical or mental illnesses or defects which may hamper a prisoner's rehabilitation. All necessary medical, surgical and psychiatric services shall be provided to that end.'* (Rule 62)

Prisons should make sure that prisoners who are sick or who are concerned about their health have access every day to a qualified medical officer, and privacy should be ensured.

The conditions under which prisoners are interviewed about their health should be the equivalent of those which apply in civil medical practice – it is unacceptable for consultation to take place with groups of other prisoners around.

There is a right to confidentiality too, which requires that prisoners should not have to submit their requests for access to the doctor to other prison staff – they should never have to disclose their reasons for seeking a consultation.

#### ***Discussion point:***

*Can you think of any circumstances where there may be possible tensions between the prisoners' medical and health needs and the interests of the broader prison community and prison administration?*

The treatment provided as a result of consultation and diagnosis should be that which is in the best interests of the individual prisoner. Decisions should not be based on the relative cost or convenience to the prison administration.

In some countries prisoners who are terminally ill may be released early from their sentences. Any diagnosis made or advice offered should be based on professional

judgement and the best interests of the prisoner. It will be for the prison authorities to consider and assess any risks posed by the early release of such prisoners.

Special provisions need to be made too for prisoners who are drug dependant and are in the process of withdrawal.

In many prison systems a significant proportion of prisoners suffer from some form of mental illness. Prisoners who are insane should not be in prison.

**Rule 82** of the **Standard Minimum Rules** states that:

### **Slide 9 - MENTAL ILLNESS**

- (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 specialised 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. (Rule 82)

When a prisoner is diagnosed as mentally ill they should not be held in prison and the prison authorities should make every effort to have them transferred to a psychiatric facility.

While they remain in prison they will require special care. It is particularly important in the case of prisoners who are receiving psychiatric treatment that arrangements should be made for their continuing care after they are released.

### **Prison Doctor**

Each prison should have sufficient qualified health care specialists, the primary responsibility of whom is to look after the health care of the prisoners.

There should be at least one qualified medical officer, as specified by **Rule 22 (1)** of the **Standard Minimum Rules**:

### **Slide 10 - HEALTHCARE STAFF**

'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 organised 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.’(Rule 22(1))

There is a reason the rules specify a close relationship to the health administration of the community; it is a good way to ensure that a prison has enough qualified medical staff. All health care staff should be qualified to at least the same level as would be required for similar posts outside the prison. Similarly, their salaries and conditions of employment should be to a similar standard.

The rules also call for a qualified dentist. **Rule 22 (3)** states that:

### Slide 11 - DENTAL CARE

‘The services of a qualified dental officer shall be available to every prisoner.’(Rule 22(3))

The prison doctor has three crucial roles set out in the **Standard Minimum Rules**:

***Discussion point:***

*What do you think these roles are?*

### Slide 12 - THREE KEY ROLES FOR MEDICAL OFFICER

1. The doctor is a private doctor of a prisoner - This primary role of the medical officer means that issues of medical confidentiality between doctor and patient must be respected.
2. The doctor is an adviser to the prison director for specific matters with respect to prisoners treatment - This aspect of the medical officers’ role is extremely sensitive. They are the one person in the prison whom the director cannot tell what to do in respect of his or her professional duties.
3. The doctor is a social health and hygiene officer, supervising and reporting about the general situation of health and hygiene in the prison

The most general guideline for the medical officer is **Rule 25 (1)** of the **Standard Minimum Rules** which states that:

### Slide 13 - MEDICAL ROLE OF MEDICAL OFFICER

‘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.’(Rule 25(1))

The implication of this rule is that the medical officer is qualified, and has at their disposal a well-equipped surgery and treatment room, and is prepared to treat prisoners on the same basis as other patients.

Again it is important to remember that doctors are in prison because they are doctors, and they are to act like doctors – only in the interests of prisoners, without interference.

The most important international provisions dealing with the responsibilities and roles of the prison health-care personnel are the **Principle 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.**

#### **Slide 14 - MEDICAL ETHICS**

‘To certify, or participate in the certification of, the fitness of prisoners or detainees for any form of treatment or punishment that may adversely affect their physical or mental health and which is not in accordance with the relevant international instruments, or to participate in any way in the infliction of any such treatment or punishment which is not in accordance with the relevant international instruments.’  
Principle 4 (b)

Ultimately it provides that the medical officer must be particularly careful not to be involved in any way in the disciplining or punishment of prisoners, or in restraining a prisoner for any reason other than a medical one.

What must be avoided at the very least is involvement of a prison doctor in security or disciplinary matters of any kind. A prison doctor is not part of the prison management

#### **Other Healthcare Staff**

**Rule 22 (2)** of the **Standard Minimum Rules** states that:

#### **Slide 15 - HEALTHCARE STAFF**

‘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.’ (Rule 22(2))

This mention of “suitable trained officers” refers to both qualified physicians *and* nurses.

Qualified nurses should be present just as much in prisons without a hospital unit, particularly if a doctor’s services are limited – They can fulfil an important role by compensating for the doctor. The **Code for Nurses** reads:

## Slide 16 - NURSES

### Code for Nurses

‘The fundamental responsibility of the nurse is fourfold: to promote health, to prevent illness, to restore health and to alleviate suffering.’

In some countries, prison officers are trained to act as medical first aid officers, often referred to as health workers, to ensure that immediate help is available when required.

Health workers can play a valuable role in prisoners, provided they are trained well and function under the supervision of the prison doctor, and perhaps assisted by a nurse.

#### ***Discussion point:***

*What specific functions do you think could be performed by these specially trained prison officers?*

Their main tasks could be:

- Providing first and simple aid
- Recognising situations which have to be referred to a professional medical officer
- Identifying stress caused by imprisonment
- Identifying symptoms of drug addiction, HIV/AIDS, other transmissible diseases and reporting them.

### **Responsibility of all Staff**

Following on from this, it is clear that the health of prisoners is not just the responsibility of the prison administration and health officers, but also of prison staff.

Every member of the prison staff should ensure that prisoners’ health rights and entitlements are enforced.

**Article 6** of the **UN Code of Conduct for Law Enforcement Officials** states that:

## Slide 17 - RESPONSIBILITY OF ALL STAFF

### UN Code of Conduct for Law Enforcement Officials

‘Law enforcement officials shall ensure the full protection of health of persons in their custody and, in particular shall take immediate action to secure medical attention whenever required.’ (Article 6)

This code includes prison staff, so should be applied by them.

All prison staff need to have an understanding of basic health matters. Very often when an incident occurs in prison in which someone needs immediate first aid it will be non health care staff who will be first on the scene and who will be required to administer immediate care.

Also, Additional training and education are necessary periodically to keep staff and prisoners up to date on the latest health problems, such as drug abuse, HIV/AIDS, tuberculosis and other transmissible diseases.

Every request of a prisoner to see a doctor should be taken very seriously answered and agreed to promptly, unless this request is obviously faked. In case of doubt, the request should be granted. If afterwards it was deemed to be wilful misuse, appropriate disciplinary sanctions should be taken, but a new request to see a doctor should never be refused because of an earlier misuse.

### **Health Conditions in Prisons**

In addition to meeting the needs of prisoners who are ill, prison administrations are also responsible for ensuring that the conditions of imprisonment do not adversely affect physical and mental health. We covered this briefly in Session 3.

The conditions under which prisoners are detained will have a major impact on their health and well-being. In order to meet their responsibilities therefore, prison administrations should ensure appropriate standards in all those areas that may affect the health and hygiene of prisoners.

***Discussion point:***

*What areas of a prison may have an impact on the health and hygiene of staff and prisoners?*

The physical conditions of the accommodation, the food and the arrangements for hygiene and sanitation should all be designed in such a way as to help those who are unwell to recover and to prevent the spread of infection to the healthy.

The medical officer has a responsibility for the health of the prison as well as the health of individual prisoners:

As **Rule 26** of the **Standard Minimum Rules** states:

### **Slide 18 - MONITORING ROLE OF MEDICAL OFFICER**

'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 prisoner's 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. (Rule 26)

The other roles and responsibilities of the medical officer will be covered later.

Overcrowding and a lack of resources can be a problem faced by many prisons, and provide an obstacle to achieving healthy prison conditions.

The amount of space available to each prison and access to natural light and fresh air will all have a significant impact on the spread of infectious diseases and on the mental state of prisoners. **Rule 10** of the **Standard Minimum Rules** pay attention to this:

### **Slide 19 - HEALTH AND ACCOMMODATION**

'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.'(Rule 10)

The **European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment** has stressed the importance of preventive health care in prisons. Thus the task of prison health-care services should not be limited to treating sick patients, but should extend to social and preventive medicine, including supervising proper hygiene in prisons, preventing transmissible disease, suicide and violence, and limiting the disruption of social and family ties.

### **Medical Conditions**

#### **Transmissible Diseases**

As previously mentioned, transmissible diseases are a big problem for prison administrations. Measures taken are very different in different countries.

Decisions about these matters must not be based on irrational opinions of prisoners, staff or the public. The basic starting point should be the respect of a person's integrity and dignity and trust in a doctor's medical judgement.

The first recommendable solution is to inform prisoners and staff about diseases, the real risks of infection and how to avoid them.

***Discussion point:***

*Measures to reduce risks have been introduced in prisons in some countries – for example, making condoms available and even syringes for drug users. Do you think that this is appropriate?*

Suicide

In prison self-mutilation and suicidal efforts occur. They happen generally because of mental, social or cultural problems. They should be dealt with carefully, sensitively and individually – certainly not routinely or disciplinarily.

***Discussion point:***

*What action do you think the prison administration should take to prevent suicide and self harm?*

Often the measure taken to prevent a prisoner harming themselves is isolation, but this is exactly the opposite of what is needed. Care and contact should be the first response. Training staff about reasons for suicide attempts, identifying symptoms and establishing strategies to support vulnerable prisoners are essential.

Refusal to Eat

A refusal to eat is frequently a protest, not a suicide attempt. When this is the case it is not a medical problem, but a political or social problem. The **World Medical Association's Declaration on Hunger-Strikes** states that, regarding a doctors intervention or not, that:

## Slide 20 - HUNGER STRIKES

### World Medical Association's Declaration

'The ultimate decision on intervention or non-intervention should be left with the individual doctor without the intervention of third parties whose primary interest is not the patient's welfare.'

#### ***Discussion point:***

*Do you think that the State should force-feed a prisoner on hunger strike? Or should the prisoner be able to die if he wants to? Should the mental condition of the prisoner be the key factor?*

## Slide 21 - SMALL GROUP ACTIVITY

### **Small Group Activity**

- 1. What do the relevant provisions in the Law of Reform and Rehabilitation Centres have to say in relation to the following:***
  - Health care in prison***
  - Role and responsibilities of the prison doctor and prison healthcare staff***
  - All prison staff in relation to prison healthcare?***
- 2. Do you think that there are any differences when compared to the International Standards and Norms – both higher level of provision and shortfalls?***
- 3. Are the provisions in the law fully and effectively implemented? If not, what could be done to ensure compliance?***



## SESSION 9

### CONTACT WITH THE OUTSIDE WORLD

#### Slide 1 - TITLE

#### CONTACT WITH THE OUTSIDE WORLD

##### Duration:

2 Hours

##### Purpose of session:

To reinforce the principle that despite being deprived of liberty, prisoners retain a right to have contact with their family and friends and the outside world.

##### Key Points:

#### Slide 2 - KEY POINTS

- All prisoners have the right to communicate with the outside world, especially with their families.
- No one shall be subjected to arbitrary interference with his or her privacy, family, home or correspondence.
- Foreign Prisoners should be allowed to communicate with their diplomatic representatives.
- A prisoner's request to be held in a prison near his or her home shall be granted as far as possible.
- Prisoners shall be kept informed of important items of news.

##### Retained Rights

The very idea of imprisonment implies that the interaction and communication of inmates with the outside world is seriously reduced. However, general human rights to interaction and communication are not abrogated by the fact of imprisonment.

Under prison conditions, there must be certain necessary limitations to some of these general rights. The question as to how far these limitations will go, will, however, be debatable.

*Discussion point:*

*What limits, if any, should be placed on a prisoners' right to maintain contact with society?*

The principle that prisoners retain, within certain limits, human rights and freedoms, is connected to the idea that prisoners generally return to society and should

reintegrate as normal citizens. Therefore **contacts with the outside world are an essential** part of the prisoners' reintegration into society.

This idea is most clearly spelled out in **Rule 61 (1)** of the SMR, where it says:

### **Slide 3 - PRISONERS AS PART OF SOCIETY**

'The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it.' (Rule 61(1))

Prisoners' outside contacts must be seen as **entitlements rather than as privileges**. They should, therefore, not be used as either rewards or punishments. To deprive prisoners of such contacts as a disciplinary sanction should be unacceptable, except where a specific abuse of the exact contact was the offence. With respect to family contacts any such deprivation should be avoided.

### **Methods of Communications and contact**

There are five basic ways in which contact with can be maintained with the outside world that are covered by this session:

- Letters
- Visits
- Telephone
- Inmate Leave
- Books, Newspapers and the Internet

### **Outside Contacts**

There are different types of outside contact: contacts with family and friends, professional and institutional contacts; and contacts with others such as the media.

**Article 12** of the **Universal Declaration of Human Rights**, says that no one shall be

### **Slide 4 - OUTSIDE CONTACTS**

"subjected to arbitrary interference with his privacy, family, home or correspondence." (Article 12)

Contact with family is made explicit in **Principle 19** of the **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**, which states that:

### **Slide 5 - RIGHT TO VISITS AND CORRESPONDENCE**

'A detained or imprisoned person shall have the right to be visited by and to correspond with , in particular, members of his family and shall be given adequate opportunity to communicate with the outside world,

subject to reasonable conditions and restrictions as specified by law or lawful regulations.’ (Principle 19)

Family contact may be even more important inside prison as on the outside. Very often, near relatives will be the only ones to keep in touch with an offender over long stretches of imprisonment.

Contact with family is also explicit in Standard Minimum Rules **37** and **92**:

### Slide 6 - RIGHT TO COMMUNICATE

‘Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits’. (Rule 37)

‘An untried prisoner shall ... shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to such restrictions and supervision as are necessary in the interests of the administration of Justice and of security and good order of the institution’. (Rule 92)

It is well known that to be separated from one’s family and friends is among the most acute pains of imprisonment, but furthermore there is the notion that links with the family (and the wider community) constitutes the most solid basis for social reintegration.

It would be wrong, however, to restrict prisoners’ outside contacts to just their families, which is why the Standard Minimum Rules also make a reference to friends.

Many prisoners are unmarried, divorced or separated from their partners. In other cases, the prisoner may not wish to have **contact with relatives**. Therefore, the language of the rules must not be construed too narrowly.

There is an interesting debate about whether it is reasonable for **Rule 37** to restrict contacts to ‘**reputable friends**’ only. First of all, the notion of ‘good repute’, with its strong social connotations could be abused to rule out visits from many friends of most prisoners. Secondly, even a narrower concept of repute inevitably focuses on past decisions.

*Discussion point:*

*Is it acceptable to prohibit contact with a person because they are a former prisoner?*

It is therefore good practice to restrict such contacts only when specific incidents or information make this unavoidable in the interests of security.

Any contact with the outside world is likely to raise some security concerns. It is important, therefore, to find ways in which appropriate levels of contact can be maintained without jeopardising security. This will usually be possible, provided that staff understand that both security and contact with the outside world are equally important elements in their difficult task.

### **Contact from the Start**

Notification of the detention and of any transfer is a necessary prerequisite to any communication and interaction with family and friends. This also serves as a safeguard against “disappearances” and incommunicado detention.

The **Standard Minimum Rules** make it a right of the individual prisoners themselves to pass on the information of his or her imprisonment:

#### **Slide 7 - RIGHT TO INFORM FAMILY OF CUSTODY**

‘Every prisoner shall have the right to inform at once his family of his imprisonment or his transfer to another institution’. (Rule 44 (3))

### **Placement Near Home**

The importance of maintaining links with family members and friends has implications first of all for the placement of prisoners. If prisoners are placed a long distance from their homes, this makes visiting (as well as home leaves) more strenuous as well as more costly.

**Principle 20** of the **Body of Principles** provides that:

#### **Slide 8 - LOCATED CLOSE TO HOME**

‘If a detained or imprisoned person so requests, he shall, if possible, be kept in a place of detention or imprisonment reasonably near his usual place of residence.’ (Principle 20)

The possibilities of a transfer to a place closer to home should be discussed with every prisoner soon after his or her arrival in the prison.

*Discussion point:*

*Given the current situation in Palestine, how realistic do you think that it is to keep prisoners near their home?*

In many systems such a transfer may be particularly difficult with respect to female prisoners, since the few women’s prisons may not be in the right places. If, on the

other hand, a permanent placement near home is not feasible, temporary transfer for visiting purposes is a helpful practice.

In the case of foreign prisoners, the implication is that they should, if possible, be able to serve the sentence in their home country (**Model Agreement on the Transfer of Foreign Prisoners**, adopted by the Seventh UN Crime Congress, 1985).

## Slide 9 - MEANS OF CONTACT AND COMMUNICATIONS

- Letters
- Telephone calls
- Visits

### Letters

Correspondence as a means of maintaining outside contacts is mentioned explicitly in the SMR.

Traditionally, there have been rather restrictive regulations in this area. If all letters are to be read and censored by prison staff, delays in the flow of letters has to be kept at a minimum.

*Discussion point:*

*Do you think that reading letters is a breach of the Right to Privacy? Is it ever justifiable to read correspondence? On what grounds can the censoring of prisoners' correspondence be justified? When is it necessary? What special arrangements can be made for prisoners who cannot read or write?*

It is now generally accepted that only in extreme cases such censorship represents a **“reasonable condition and restriction”** as mentioned by **Principle 19** of the **Body of Principles**.

As a rule, therefore, there shall be no limits imposed on the number of letters a prisoner may send and receive and the number of correspondents he or she may have. This applies also to correspondence between prisoners.

In some systems, only incoming letters are checked. If the goal is to prevent contraband from entering the prison, the letters need not be read, but only checked for illegal enclosures. Good practice requires this to be done in the presence of the prisoner, in order to avoid any appearance of invading the prisoner's privacy.

In order to facilitate needy prisoners' correspondence, it may be necessary to supply them with the necessary writing utensils and with stamps.

## **Telephone Calls**

The **Standard Minimum Rules** do not explicitly mention telephones.

Telephone calls can be an important means for prisoners to maintain contact with their family and friends. Telephone communication should therefore be treated very much like correspondence, particularly when matters need to be dealt with urgently.

The normalcy of telephone communication can be stressed by having regular telephone booths in prisons. In many prisons this is still seen as impossible because the coins necessary for operating pay phones are not allowed. The invention of card telephones has to a large degree, done away with that argument.

The possibility to talk over the phone is, of course, of particular importance for those prisoners who do not know how to read and/or write. Also, if prisoners' families and friends live far away from the place of imprisonment, visits are more difficult and telephone calls can serve as a substitute.

As with letters, there can be some security considerations in allowing telephone calls.

*Discussion point:*

*Do you think that monitoring telephone calls is a breach of the Right to Privacy?  
Is it ever justifiable to monitor telephone calls?*

It may be necessary for some prisoners to make and receive calls from an office under the supervision of a member of staff. In cases of emergency, prisoners should be allowed to use official telephones under the appropriate supervision.

## **Visits**

Visits are a more powerful medium of external social relations than letters or telephone conversation.

*Discussion point:*

*What action can be taken to ensure that prisoners receive regular visits from their family and friends?*

The international norm is that they should allow for **physical contact**. Physically separating visitors should be resorted to only in exceptional situations.

Conditions in which visits are conducted are of great importance to maintaining social links and for preserving prisoners' dignity. If visits are to play a real part in maintaining a prisoner's connection with the community and in his or her eventual rehabilitation, then they need to be sufficiently frequent and of reasonable length.

They should take part in decent conditions of privacy to allow meaningful communication to take place. Staff should be specially trained for conducting visits in an atmosphere of human dignity – visitors are not criminals, they should be treated with courtesy.

Where prisoners are not allowed out, visits are the most obvious opportunity to smuggle drugs, alcohol, money and arms into prisons. In practice this means that a **balance has to be struck** between providing humane and welcoming arrangements for visits and the need for supervision.

*Discussion point:*

*What are some of the security issues connected with visits? How the risks be minimised and at the same time comply with international norms on Human Rights?*

The right of a prisoner to be visited by his or her family should not be removed for disciplinary reasons. It may sometimes be necessary, however, to limit the conditions in which visits take place. For example, if there is proof of a previous attempt to smuggle goods into the prison during a visit, the prisoner or visitor involved may be required to have future visits without future contact

It is a good practice in some prison systems to allow longer visiting hours if the visitors have to travel a long distance. Sometimes, even special rooms, houses, trailers etc. are provided for the prisoners to meet their long-term visitors in an atmosphere that allows for more privacy and intimacy. This is particularly important for visits with all the family, including children.

### **Intimate Visits**

In some prison systems, sexual contact between prisoners and their visitors is discouraged but in other systems such contact is tolerated.

In still others they are openly allowed – for example in some countries there are also bedrooms set aside for conjugal visits where couples may stay for between four

hours and a night. The intimacy of these visits can be seen as the most likely way to maintain a relationship during the imprisonment of one of the parties and therefore enable prisoners to exercise their right to family life.

While this system is usually referred to as “conjugal visits”, making it seem like a privilege of married prisoners, it is often extended to unmarried couples of whatever sex – the eligibility for conjugal visits must be clear and unambiguous.

Whenever sexual contact is permitted, contraceptive precautions (such as condoms) should be available to prisoners and their visitors. Health issues and advice would also need to be considered for all parties engaging in sexual activity.

*Discussion point:*

*Do you think that intimate visits should be introduced in our prisons?*

### **Prison Leave**

The most natural way of enhancing a prisoners’ contact with the outside world is by way of prison leave (home leave, furloughs etc.). If the prisoner can periodically go home, this can at least alleviate some of the problems that are caused by imprisonment itself (including the sexual and relation problems of prisoners and their partners).

If possible **home leaves** should be granted on a regular, periodic basis and to clearly defined groups of prisoners. If it is granted as a privilege, by rather arbitrary decisions and as a reward of good conduct, it not only devalues home leaves as a means of maintaining family ties and social contacts, but also may cause feelings of unfair treatment.

Home leave is particularly important at the end of a sentence to enable prisoners to re-establish themselves in their community.

*Discussion point:*

*Do you think that Home leave is feasible in Palestine?*

An interesting compromise solution between visits and leave is available in some countries. Suitable prisoners are permitted to meet their visitors outside prison walls.

### **Professional and Institutional Contacts**

We will now go on to look at contact with others outside of the prison such as lawyers, religious representatives, public bodies and diplomatic representatives.

Contact with a lawyer can be of utmost importance in a situation of imprisonment. Such contact needs to be unobstructed and confidential. The **Standard Minimum Rules** have recognised this fact as far as prisoners under arrest or awaiting trial are concerned:

### Slide 10 - LEGAL VISITS

'For the purpose of his defence, an untried prisoner shall be allowed to receive visits from his legal adviser with a view to his defence and to prepare and hand to him confidential instructions. For these purposes, he shall, if he so desires, be supplied with writing material. Interviews between the prisoner and his legal adviser may be within sight but not within the hearing of a police or institutional official.' (Rule 93)

But the situation is no different for other kinds of prisoners.

In addition to the purpose of defence, legal assistance may be necessary to shorten the stay in prison or to ameliorate prison conditions. Furthermore, legal assistance may be needed for reasons not immediately connected to the fact of imprisonment.

This more encompassing nature of contact with lawyers has been recognized by **Principle 18** of the **Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment**.

These privileges of confidentiality and non-interference apply to all of the forms of communication discussed earlier (correspondence, telephone, visits etc.). This means that prison officials may not open lawyers' letters, listen in on lawyers' phone calls etc. Any possible doubts about the lawyers' credentials have to be settled before the privileged communication begins.

*Discussion point:*

*What action should be taken if a lawyer is suspected of smuggling illegal items into prison? What action should be taken if it is thought that a prisoner is giving information to his lawyer about criminal activity during the visit?*

Much of what has been said about contacts with lawyers applies equally to contacts with representatives of a religion or an ethical society.

The right to privileged contact with religious representatives is made explicit and elaborated upon in the **Standard Minimum Rules**:

### Slide 11 - RELIGIOUS REPRESENTATIVES

‘Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his attitude shall be fully respected.’ (Rule 41 (3))

The rules do not mention the conditions under which visits by religious representatives are to be conducted.

Because of the highly private nature of such encounters it is good practice to conduct those visits, very much like lawyers’ visits at least out of hearing of any prison officials.

There are no international rules on prisoners’ contact with members of the administration, the courts, the legislature or parliament. In many countries, however, such contact is privileged, in that letters are not censored, and visits are not supervised.

*Discussion point:*

*Do you think that communication with members of the administration; the courts, the legislature or parliament should be privileged?*

This is good practice since it permits prisoners to vent their grievances without fear of reprisal by prison officials. The same should apply to contact with international organisations, notably with the UN Human Rights Commission and other human rights bodies.

In the spirit of the guiding principles of the SMR, notably **Rule 61**, efforts should be made to encourage and facilitate contacts of prisoners with probation or rehabilitation bodies and other community agencies, which are:

### **Slide 12 - CONTACT WITH CIVIL SOCIETY**

‘charged with the duty of maintaining and improving all desirable relations of a prisoner with his family and with valuable social agencies’.

As discussed previously, foreign nationals have to be enabled to communicate with their countries’ diplomatic or consular representatives:

### **Slide 13 - FOREIGN PRISONERS**

‘Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.’ (Rule 38 (1))

As the language of the Rule indicates, such contact should be 'allowed', but never made by the prison administration without the consent of the prisoner concerned.

Not all prisoners will want the diplomatic representatives of their country to know about the fact of their imprisonment. It is therefore good practice for the prison administration not to volunteer information about a person's imprisonment without the person's consent.

Prison authorities should primarily inform prisoners about their rights under **Rule 38** and under the **Vienna Convention**. This includes the right to contact their embassies and/or consulates.

It should be mentioned that the international Red Cross (ICRC) has a responsibility to assist foreign prisoners in countries where these prisoners have no permanent diplomatic or consular representation, where the ICRC is requested as a neutral intermediary and where the ICRC has a permanent delegation or has regular access to those countries.

### **Media Contact**

Direct human contact is the most important but by far not the only outside contact prisoners are entitled to

### **Slide 14 - ACCESS TO THE MEDIA**

#### **Universal Declaration of Human Rights**

'receive and impart information and ideas through any media' (Article 19).

The freedom of opinion, expression and information is even more forcefully stated in **Article 19** of the **International Covenant on Civil and Political Rights**:

### **Slide 15 - FREEDOM OF EXPRESSION**

#### **International Covenant on Civil and Political Rights**

'Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.'  
(Article 19)

Restrictions of the freedom of information are sometimes justified by reference to public order. But it must be stressed that particularly strict requirements must be placed on the necessity of a given statutory restriction.

*Discussion point:*

*Do you think that prisoners should be permitted to give interviews, write to the media and publish books/articles whilst in prison?*

The SMR use comparatively restrictive language in relation to accessing the media:

### **Slide 16 - ACCESS TO NEWSPAPERS AND TV**

*'Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the administration.'*(Rule 39)

It is good practice to allow prisoners, as a rule, complete access to all media that are legally available outside prison.

Exceptions to this rule should be limited to reasons of safe custody, i.e. material which would facilitate escape from custody or insurrection inside the prison.

From this starting point, **Rule 39** appears as an additional obligation of the prison administration to provide access to **"the more important items of news"** even to those prisoners who are for some reasons unable to get this information on their own.

The most important newspapers and other periodicals should be available at the prison library.

It is good practice to allow prisoners to subscribe to any periodical that is legally available outside the prison.

*Discussion point:*

*Should there be any restrictions on what prisoners can access? For example, should they be able to purchase pornographic magazines and extremist political papers .*

Private organizations should be encouraged to provide poor prisoners with free subscriptions of newspapers or other periodicals.

One very efficient way of giving prisoners access to outside information is by providing them with the opportunity to listen to radio programs or watch television. This means that the prison will have to provide radios and/or television sets. Usually

this is done in communal rooms, where prisoners can spend their time after work together.

In countries where radios and/or TV sets are normal equipment in most households, the principle of normalcy will speak in favour of allowing prisoners to have their own radio/TV sets in their rooms or cells, as well as in communal areas.

#### **Slide 17 - SMALL GROUP ACTIVITY**

##### **Small Group Activity**

**1. What do the relevant provisions in the Law of Reform and Rehabilitation Centres have to say in relation to the following:**

- **Letters**
- **Visits**
- **Telephone**
- **Intimate leave**
- **Books, newspapers and the internet**

**2. Do you think that there are any differences when compared to the international standards and norms – both higher level of provision and shortfalls?**

**3. Are the provisions in the law fully and effectively implemented? If not, what could be done to ensure compliance?**



## SESSION 10

### COMPLAINTS, GRIEVANCES and REQUESTS

#### Slide 1 - TITLE

#### COMPLAINTS AND REQUESTS

##### Duration:

1 Hour

##### Purpose:

The purpose of this session is to highlight that complaints, grievance and request procedures must be drawn up in such a way that they can be understood and accepted both by prisoners and by those responsible for the administration process.

##### Key Points

#### Slide 2 - KEY POINTS

- Every prison should have the right to make a complaint regarding his or her treatment and, unless the complaint is evidently frivolous, to have it dealt with promptly and, if requested, confidentially. If necessary, the complaint may be lodged on behalf of the prisoner by his or her legal representative or family.
- Every prisoner on admission shall be provided with written information on rules and on complaints and disciplinary procedures in a language that he or she understands. If necessary, these regulations should be explained orally.
- If a complaint is rejected or not responded to in a timely manner, the complainant shall be entitled to bring it before a judicial or other authority.

#### Obligation to have Complaints system

*Discussion point:*

*Why do you think it is important to have a complaints system in prison? What would happen if there was no complaints system?*

It is of fundamental importance that all prison systems should be administered in a manner which is fair and just, and which is seen to be so. One way of ensuring this is that there should be a clearly defined set of procedures that allow a prisoner to make a request or complaint, or to air a grievance, without fear of reprisal.

**Rule 36 (1)** of the **Standard Minimum Rules** encourages prisoners to complain and communicate to the prison administration about their problems in prison and requires prison directors and heads to make themselves available for this purpose, at least, once every week.

### **Slide 3 - ABILITY TO MAKE COMPLAINTS**

‘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.’ (Rule 36(1))

**Rule 36 (3)** goes on to make clear that:

### **Slide 4 - COMPLAINTS WITHOUT CENSORSHIP**

‘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.’ (Rule 36(3))

The right to complaint is also enshrined in **Principle 33 (1)** of the **Body of Principles**:

### **Slide 5 - RIGHT TO MAKE A REQUEST OR COMPLAINT**

‘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.’ Principle 33(1).

The utility of healthy communication in any human institution cannot be over-emphasised. Prisoners should be encouraged to communicate with the prison administration about any difficulties they have, assured that their complaints will be treated seriously.

In practice, it would be useful to establish a participatory system in which prisoners are involved in generating ideas for running the prison. This has the advantage of enhancing routine communication between staff and prisoners.

*Discussion point:*

*What sort of issues do you think that it would be worthwhile to consult prisoners on?*

## **Understandable Procedures:**

The objective of good prison management should be, as far as possible, to prevent serious complaints from arising in the first place. One way of achieving this is having and adhering to a very clear set of procedures covering all aspects of the daily life of the prison.

Prisoners need to have access to these written procedures and regulations regarding prison life upon admission, as highlighted by **Rule 35 (1)** of the **Standard Minimum Rules** and discussed in Session 4.

*Discussion point:*

*What key elements should be included in a complaints procedure?*

Complaints procedures should contain a description of how a prisoner can go about making a request about his or her treatment and should also describe the avenues of complaint which are available to prisoners, beginning at the local level and going on to the most senior level in the prison, and, if need be, beyond the prison.

No procedures are in place that might deter prisoners from raising legitimate complaints and grievances. The disciplinary procedures should not contain any regulations that make it difficult for prisoners to complain, such as punishing them for making allegations against staff that turn out to be unfounded.

Often prisoners are also discouraged from complaining against prison staff and administration for fear of reprisals from the staff.

Prison authorities are encouraged therefore to provide prisoners with confidential avenues for making their complaints and to respect any requests the prisoners may make for confidentiality in the handling of their complaints, as highlighted by **Principle 33 (3)** of the **Body of Principles**:

## **Slide 6 - CONFIDENTIALITY OF COMPLAINTS**

### **Body of Principles**

*'Confidentiality concerning the request or complaint shall be maintained if so requested by the complainant.'* (Principle 33(3))

## **Internal and External Mechanisms:**

Many complaints are likely to be about issues concerning daily routine or treatment.

Matters that will be of little importance to people in normal society can take on great significance in the highly disciplined prison world, in which there are likely to be regulations affecting almost every aspect of daily life.

One of the main objectives of the prison administration should be to prevent a simple request from developing into a complaint, or a complaint developing into a formal grievance, or a grievance developing into an appeal to a higher body.

The best way of achieving this is by having good relationships between staff and the prisoners they deal with. Not every complaint by prisoners will need a formal consideration and response – In practice, prison staff will be able to listen and respond to most complaints by prisoners over the course of their routine duties without the need to put the complaint forward for formal consideration.

*Discussion point:*

*What types of complaint do you think could be dealt informally by prison staff exercising their discretion?*

It is not possible to resolve all requests and complaints in this informal manner. In addition, each prisoner system needs to have a formal procedure for dealing with requests and complaints that cannot be resolved informally or between individuals.

On each working day the prison director or senior member of staff should consider all such approaches from prisoners.

Wherever possible the prisoner should be allowed to make the request or complaint in person.

If the volume of requests makes this impossible, arrangements should be made for it to be submitted in writing.

Regardless of whether the request is submitted orally or in writing the prison should make a formal written record of the request and of the response to it.

If the director of the prison rejects the complaint, or if it is being made against the director, the prisoner should be able to make a written application to a more senior person in the prison administration, usually at regional or national headquarters.

In the interests of justice and fairness it is important that a complaint being made against an individual member of staff should not have to be channeled through that person. For this reason, there should be a procedure that allows prisoners to submit confidential requests and complaints to higher authority.

*Discussion point:*

*What mechanisms could be put in place to allow prisoners to submit confidential requests and complaints to higher authority?*

It is also beneficial to enable prisoners to put forward requests and complaints, of which the prison cannot offer immediate assistance, to non-governmental agencies.

For example, the prison administration can refer foreign prisoner to local charities and humanitarian organizations which may be able to provide counseling and support through visits and similar forms of contact.

Requests and complaints should be dealt with as quickly as possible, as stated by **SMR Rule 36 (4)** and Body of Principles Principle 33(4)

#### **Slide 7 - DEALING PROMPTLY WITH COMPLAINTS AND REQUESTS**

*'Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.'* (SMR Rule 36 (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.'* (BOP Principle 33 (4))

The general procedure should indicate how many days it will normally take to give a response. If the request is a complicated one that cannot be resolved in the normal time, the prisoner should be told how long it would take.

*Discussion point:*

*How many days do you think would be a reasonable time to respond to complaints?*

#### **Areas of Complaint:**

There are at least five main possible areas for complaint by a prisoner:

*Discussion point:*

*What do you think those five areas are?*

## **Slide 8 - AREAS OF COMPLAINT**

- Allegations of criminal behavior
- Claims for civil damages
- Complaints of poor practice
- Appeals against the content of decisions
- Appeals against disciplinary findings

### **1) Allegations of criminal behavior**

Sometimes prisoners will allege that either members of staff or other prisoners have engaged in activities that contravene criminal law.

Although prison officials typically have powers to investigate and punish disciplinary offences by both staff and prisoners, they do not normally have any powers in the field of criminal investigation or prosecution.

Nor do they have powers to decide whether there should be an investigation into or a prosecution of allegations of behaviour that is contrary to criminal law.

Any allegation of such behavior should be referred immediately to the responsible authorities.

### **2) Claims for civil damages**

There are a number of circumstances in which prisoners may claim that officials have exercised inadequate care in managing prisons and that, as a consequence, they have a legitimate claim to civil damages.

Claims could include health and safety regulations, hygiene or protection from dangerous prisoners.

### **3) Complaints of poor practice**

Complaints which do not amount to claims for damages can arise from many areas of prison activity.

Meals can be badly cooked or cold; prison staff can be rude or insensitive; property can be lost; there can be delays in visits or correspondence; and so on.

Very often, all that is sought by the prisoner is the recognition by someone in authority that things have gone wrong and an apology. Prison officials need to ensure that such complaints are given proper consideration and that investigations which arise out of them are thorough and frank.

Inadequate investigation of minor but justified complaints often leads to a far greater level of grievance than that which arose from the original complaint.

While it is often the case that judicial investigation of such complaints will not be merited, the underlying principle is that the prison authorities should not seek to prejudge the issue and should allow unhindered access to legal advice.

#### **4) Appeals against the content of decisions**

Not surprisingly, prisoners are liable frequently to seek recourse to a more senior authority when the content of an official response to a request or complaint is not the one they wanted. The same conditions apply to such appeals as to complaints about poor practice.

#### **5) Appeals against disciplinary findings**

The procedure for disciplinary hearings and punishment was dealt with in Session 6. Prisoners who feel that they proper procedures were not followed in their case - or who feel that they have been punished unjustly - should have the right of appeal to a higher authority.

### **Complaints by Family and Friends:**

In addition to prisoners complaints, the families of prisoners as well as voluntary or non-governmental organisation visitors to the prisons can also lodge complaints on behalf of prisoners after due discussions with the prisoners concerned.

As **Principle 33 (2)** of the **Body of Principles for the Protection of All Persons under Any Form of Detention** explains in detail:

### **Slide 8 - COMPLAINTS BY FAMILY AND FRIENDS**

'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.' (Principle 33(2))

As well as these procedures, focused on individual prisoners, prison administrations will also need to be sensitive to any cultures or traditions where concerns are raised through a group or family leader rather than individually.

## **Slide 9 - SMALL GROUP ACTIVITY**

### **Small Group Activity**

**1. What do the relevant provisions in the Law of Reform and Rehabilitation Centres have to say in relation to the following:**

- **Requests**
- **Complaints**
- **Grievances**

**2. Do you think that there are any differences when compared to the international standards and norms – both higher level of provision and shortfalls?**

**3. Are the provisions in the law fully and effectively implemented? If not, what could be done to ensure compliance?**

## SESSION 11

### SPECIAL CATEGORIES OF PRISONERS (PART 1)

#### Slide 1 - TITLE

#### SPECIAL CATEGORIES OF PRISONERS (1)

##### Duration:

2 Hours

##### Purpose:

Everything in the preceding Sessions apply to all prisoners in general terms, but there are certain categories of prisoners who need special consideration because of their legal status, age, gender, race or sentence type. The objective of the next two sessions is to underline what these considerations are.

##### Key Point:

#### Slide 2 - KEY POINTS

- Important for prison administration to recognise diversity amongst prisoners
- Certain groups of prisoners have requirements and circumstances that mean they need special consideration.
- Focus on pre-trial detainees and juveniles in this session

#### RECOGNISING DIVERSITY IN PRISON:

**Article 2** of the **Universal Declaration of Human Rights** states that:

#### Slide 3 - RECOGNISING DIVERSITY

##### **Universal Declaration of Human Rights**

‘Everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.’ (Article 2)

Similarly, **Principle 5** of the **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment** states that:

#### Slide 4 - NO DISCRIMINATION

## Body of Principles

'These principles shall be applied to all persons within the territory of any given State, without discrimination of any kind, such as race, colour, sex, language, religion or religious belief, political or other opinion, national, ethnic, or social origin, property, birth or other status.'  
(Principle 5)

Thus, it is important to remember that all persons are equal before the law and are entitled, without discrimination, to equal protection of the law.

Because some people are different from each other, some individuals need special protection to ensure their equal treatment.

While prison should only be used when it is necessary for all persons, there is a greater risk and there are more potentially damaging effects of imprisoning these individuals. Therefore their detention must be carried out with extreme caution and care to ensure the protection of their human rights.

*Discussion point:*

*Can you name groups of prisoners who may need special consideration and requirements?*

The prisoners who may require special consideration can be grouped into:

### Slide 5 - SPECIAL GROUPS OF PRISONERS

- Gender (females)
- Age (juveniles, older prisoners)
- Health (mental health, HIV, contagious diseases)
- Religion
- Race
- Nationality (foreign prisoners)
- Sexuality (homosexual prisoners)
- Disability (mobility, sight, hearing)
- Status (pre-trial, civil)

## **PRE-TRIAL DETAINEES**

The first special category of prisoners we are going to consider are pre-trial prisoners.

*Discussion point:*

*What do you think are the special considerations that apply to pre-trial detainees?*

Pre-trial prisoners are entitled to specific legal safeguards in addition to those of normal prisoners. The most important consideration about the status of pre-trial prisoners is that they should be considered innocent.

**Article 11** of the **Universal Declaration of Human Rights** states that:

### **Slide 6 - PRESUMPTION OF INNOCENCE**

#### **Universal Declaration of Human Rights**

‘Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all guarantees necessary for his defence.’ (Article 11)

Pre-trial prisoners have the right to different treatment in some respects from convicted prisoners because they have not been found guilty of any offence and are by law presumed to be innocent of the offence with which they have been charged.

The international instruments highlight the need to separate pre-trial prisoners from convicted prisoners. **Article 10 (2)** of the **International Covenant on Civil and Political Rights** states that:

### **Slide 7 - SEGREGATION FROM SENTENCED PRISONERS**

#### **International Covenant on Civil and Political Rights**

‘Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.’(Article 10(2))

This provision is also highlighted by:

**Principle 8** of the **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**

And

## **Rules 8 and 85 of the Standard Minimum Rules.**

The reason for this separation is to ensure that the treatment of pre-trial prisoners is appropriate to the presumption of innocence. They are not convicted people and should not be kept in a place where the ethos is that of containing people who have been given a prison sentence.

The main preoccupation of pre-trial prisoners would normally be their impending trial and making adequate preparations for it.

Different expectations would apply to the daily routine and regime for convicted prisoners.

There are also practical reasons.

*Discussion point:*

*What do you think these practical reasons could be?*

Pre-trial prisoners have a number of rights – to see lawyers, to have food brought in, to wear their own clothes, not to be required to work – which do not apply in the same way to convicted prisoners, and mixing the two would cause difficulties.

These rights of pre-trial prisoners are highlighted by the Standard Minimum Rules.

The right to have food brought in, if they so desire, is covered by **Rule 87**:

### **Slide 8 - RIGHT TO BRING IN FOOD**

*'Within the limits compatible with the good order of the institution, untried prisoners may, if they so desire, have their food procured at their own expense from the outside, either through the administration or through their family or friends. Otherwise, the administration shall provide their food.'* (Rule 87)

**Rule 88 refers to** the clothing of pre-trial prisoners:

### **Slide 9 - RIGHT TO WEAR OWN CLOTHES**

- (1) An untried prisoner shall be allowed to wear his own clothing if it is clean and suitable.
- (2) If he wears prison dress, it shall be different from that supplied to convicted prisoners. (Rule 88)

If pre-trial prisoners are allowed to wear their own clothes, appropriate washing arrangements should be made. If this cannot be done inside the prison, another option is to allow prisoners to exchange personal clothing at visits.

**Rule 89** discusses the pre-trial prisoner not being forced to work:

### **Slide 10 - RIGHT NOT TO WORK**

‘An untried prisoner shall always be offered opportunity to work, but shall not be required to work. If he chooses to work, he shall be paid for it.’ (Rule 89)

It is recommended that pre-trial prisoners should be provided with a satisfactory programme of activities, including work, education and sport, in which they can positively spend their time during the eight hours or more each day that it is also recommended they should spend outside of their cells.

**Rule 90** covers materials that pre-trial detainees should be allowed:

### **Slide 11 - RIGHT TO HAVE MATERIALS**

‘Any untried prisoner shall be allowed to procure at his own expense or at the expense of a third party such books, newspapers, writing materials and other means of occupation as are compatible with the interests of the administration of justice and the security and good order of the institution.’ (Rule 90)

In terms of healthcare, in addition to the rights of all prisoners, **Rule 91** states that:

### **Slide 12 - RIGHT TO BE TREATED BY OWN DOCTOR and DENTIST**

‘An untried prisoner shall be allowed to be visited and treated by his own doctor or dentist if there is reasonable ground for his application and he is able to pay any expenses incurred.’ (Rule 91)

In many prison systems, no distinction is made between pre-trial prisoners according to the type of offence of which they have been accused.

*Discussion point:*

*Do you think that this is appropriate and in line with the international standards we spoke about earlier in the week? Why do you think that no distinction is made?*

This means that prisoners who may be facing relatively minor charges are held in the same conditions of security as though facing serious charges. Consideration should be given to the appropriate degree of security for different groups of pre-trial prisoners.

In order to receive a fair trial it is particularly important that pre-trial prisoners are able to keep in contact with legal advisors, family and friends to as to prepare their defence properly and without undue hindrance.

Access to legal representation is highlighted by the **Standard Minimum Rules, Rule 93** states that:

### Slide 13 - RIGHT TO ACCESS LAWYERS

'For the purpose of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal advisor with a view to his defence and to prepare and hand to him confidential instructions. For these purposes, he shall if he so desires be supplied with writing material. Interviews between the prisoner and his legal advisor may be within sight but not within the hearing of a police or institution official.' (Rule 93)

Their right and access to legal representation is very important, especially if they are waiting for trial. There should be no interference from the prison authority, or censorship of correspondence. As the Standard Minimum Rules state, discussion between the prisoner and the legal representative should never be overheard by the prison authority.

It is important to remember that pre-trial prisoners should not be ignored because of the possibly transient nature of their detention. They are entitled to all the protections applying to all prisoners and the right to different treatment in some respects because they are innocent until proven guilty.

### JUVENILES

I want to move on now to consider another group of prisoners who require special considerations – Juveniles.

*Discussion point:*

*What do you think are the special considerations that apply to juveniles in detention?*

that they are entitled to not only all the human rights protections given to adults, but they should also receive additional services and protections due to their immaturity and vulnerability.

The definition of who is a juvenile or child can vary from country to country, and there are different definitions in law between countries at what age a child may be imprisoned in the prison system.

International law though is clear about who is to be regarded as a child.

### Slide 14 - DEFINITIONS

**Article 1** of the **Convention on the Rights of the Child** states that:

‘A child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.’ (Article 1 Convention on the Rights of the Child)

‘A juvenile is every person under the age of 18.’(Rule 11a UN Rules for the Protection of Juveniles Deprived of their Liberty)

This is reinforced by **Rule 11 (a)** of the **UN Rules for the Protection of Juveniles Deprived of their Liberty**:

‘A juvenile is every person under the age of 18.’

The fundamental consideration here is that the imprisonment of young people should be avoided whenever it can be, and the younger the person is, the greater the need should be to avoid detention.

Young people are in their formative years, learning and developing into adults. If these years are spent in an institution for those who have broken the law, there is a danger that the young person will absorb a criminal identity and grow up leading a life of crime.

There is also a danger of abuse, exploitation and health risks for juveniles in detention.

However, when it is deemed necessary to deprive a young person of his or her liberty, certain special considerations apply.

These are enshrined in particular international rules relating to juveniles, the main ones being:

### **Slide 15 - INTERNATIONAL RULES RELATED TO JUVENILES**

- Convention on the Rights of the Child,
- UN Rules for the Protection of Juveniles Deprived of their Liberty (also known as the Riyadh Guidelines)
- and the UN Standard Minimum Rules for the Administration of Juvenile Justice (also known as the Beijing Rules).

*Discussion point:*

*What essential principles do you think are covered by these international instruments in relation to juveniles in detention?*

## Slide 16 - KEY REQUIREMENTS

- Placement in institution as last resort
- Minimum necessary period
- Case dealt with speedily
- must be given care, protection and all necessary individual assistance
- Separated from adults

The placement of a juvenile in an institution shall always be a disposition of **last resort** and for the **minimum necessary period** (*Beijing Rules, Rule 19.1*).

In particular, every child deprived of liberty shall be ... brought as **speedily as possible for adjudication** (*International Covenant on Civil and Political Rights, Article 10.2.b*).

Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an education setting or home but for the minimum necessary period (*Beijing Rules Rule 13.2*).

The detention of juveniles pending trial shall be used only as a measure of last resort and for the shortest possible period of time. Prison officials should make every effort to ensure that juveniles are not being held without having their cases adjudicated. They should have regular contact with judges, prosecutor (phone, visits, reports) in charge with the case. They should ensure that every child have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available.

They should also ensure that a judge follow the case of the child and grant conditional release at the earliest possible time and to the greatest possible extent.

As **Rule 28** of the **Beijing Rules** makes clear:

## Slide 17 - CONDITIONAL RELEASE

(1) Conditional release from an institution shall be used by the appropriate authority to the greatest possible extent, and shall be granted at the earliest possible time.

(2) Juveniles released conditionally from an institution shall be assisted and supervised by an appropriate authority and shall receive full support by the community. (Rule 28)

The key principle is that every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of person his or her age.

While in custody, juveniles shall receive **care, protection and all necessary individual assistance-social, educational, vocational, psychological, medical and physical**-that they may require in view of their age, sex and personality (*Beijing Rules, Rule 13.5*).

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 (*International Covenant on Civil and Political Rights, Article 10.2.b*).

If separate facilities are not feasible, every effort should be made to separate the juvenile section of the prison from the adult section. Experiences around the world have shown that contact with adult prisoners is dangerous for juveniles: juveniles housed with adults are more likely to be raped, beaten, exploited and corrupted if housed with adults.

Juveniles should have little, if any, contact with adult prisoners. Any contact must be fully supervised by prison staff at all times. Adult prisoners should not work in the juvenile portion of the prison. However, a young person of 16-18 is not the same as a child of 12- 14 or 14-16. Age mixing, especially with males - among whom bullying and victimization - is more prevalent-should be discouraged.

### **Objectives of juvenile institutions**

*Discussion point:*

*So what ethos and approach do you think should operate in an institution for juveniles?*

**Rule 26 (1)** of the **Beijing Rules** states that:

### **Slide 18 - OBJECTIVES OF JUVENILE INSTITUTIONS**

'The objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society.' (Rule 26(1))

A well designed juvenile detention centre will provide more personalised and better conditions of detention for young persons deprived of their liberty. It should be of adequate size, well lit and ventilated, well furnished with regard to sleeping and living areas. Also, unless there are compelling security reasons, juveniles should be allowed to keep a reasonable quantity of personal items.

The primary objective of a detention place is not punishment but rehabilitation of the child in conflict with the law, and care must be taken to prevent long-term social maladjustment.

The emphasis of any juvenile facility should be on care, protection, education and vocational skills, and not on confinement.

The approach to juvenile rehabilitation should be multidisciplinary, drawing upon the skills of a range of professionals, including teachers, trainers and psychologists. It is important too that prison staff should create an environment in which the juveniles feel safe-safe from adults, from other juveniles, and from the prison staff. Fear breeds violence and behavioural problems.

### **Slide 19 - SPECIFIC CONSIDERATIONS FOR JUVENILES**

- **Admission**
- **Healthcare**
- **Programmes**
- **Education**
- **Recreation**
- **Family contact**
- **Preparation for release**
- **Staff**

#### **Admission of juveniles**

There are specific requirements in relation to the admission of juveniles.

*Discussion point:*

*What special requirements do you think that there should be when a juvenile is admitted to an institution?*

In every place where juveniles are detained a complete and secure record of information (identification of the juveniles, fact, reasons and authority for detention etc...) should be kept and its access should be limited to a very restricted number of persons.

During the admission in a detention centre, the juvenile should meet with a social worker and be interviewed. The first and most usual task of the social worker is to undertake a character study of the juvenile.

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

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

As with adult prisoners, juveniles should be thoroughly screened for health, psychiatric, emotional, drug and alcohol problems and a proper record should be kept.

At the time that a juvenile enters the facility, trained prison staff should evaluate the juvenile's age, criminal record, and criminal file to determine where and with whom the juvenile should be housed. Juveniles should be classified by age, strength, and level of aggression (among other categories), and housed accordingly. Violent juveniles should be separated and should be carefully watched to ensure that they not harm others.

### **Healthcare for juveniles**

Being under the age of eighteen does not insulate detained juveniles from mental illness and emotional problems.

In fact, juveniles regularly suffer from various mental health problems, especially conduct disorder, mood disorders, sleep disorders, psychotic disorders, post-traumatic stress disorder, and schizophrenia.

Juveniles should be screened and receive treatment for mental health problems. Every youth facility should have a trained child psychologist on staff.

### **Programmes for Juveniles**

Administrations should offer a full programme of education, sport, vocational training, recreation and other purposeful activities.

*Discussion point:*

*Why do you think that these activities are particularly important for juveniles?*

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

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

A positive self-image is essential to success in almost all areas of life. Young people are in an especially intensive phase of forming their identities and self-perceptions.

For this reason, improving self-esteem should be an integral part of all programmes for juveniles in detention. Group activities teaching character-building and interaction skills, for example, have been shown to be effective in raising young people's self-esteem.

Detained juveniles should never be labeled as 'delinquents' or 'hopeless cases'. Such labels can have a profound effect on a juvenile's perception of himself and consequently his ability to reintegrate following release.

Once released, efforts should be made to see that juveniles are not stigmatised as someone with a criminal background.

### **Education**

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

**Rule 26 (6)** of the **Beijing Rules** states that:

### **Slide 20 - NEED FOR EDUCATION OR VOCATIONAL TRAINING**

'Inter-ministerial and inter-departmental cooperation shall be fostered for the purpose of providing adequate academic or, as appropriate, vocational training to institutionalized juveniles, with a view to ensuring that they do not leave the institution at an education disadvantage.'(Rule 26(6))

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

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

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

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

Juveniles should also receive **vocational training** that will prepare them to assume productive employment in the community following their release.

**Young female offenders** shall not receive less treatment and training than young male offenders. All national and international standards and laws regarding child labour are applicable to detained juveniles.

### **Recreation**

Detained juveniles should engage regularly in outdoor exercise and recreational activities, including team sports.

Juveniles should also have access to recreational equipment, including balls, cards, and other games. All recreation time should be carefully supervised by staff in order to prevent bullying or harassment.

### **Maintenance of Family and Community Contact**

Every effort should be made to help juveniles maintain relationships with their families.

*Discussion point:*

*Why do you think that family and community contact is particularly important for juveniles?*

Maintenance of family ties can help juveniles re-assimilate into society.

**Article 37 (c)** of the **Convention on the Rights of the Child** states that a juvenile:

### **Slide 21 - CONTACT WITH FAMILY**

#### **Convention on the Rights of the Child**

*'Shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.'* (Article 37(c))

Research suggests that juveniles with family support are more likely to live law-abiding lives after their release.

Family ties can be maintained through:

- Scheduling regular family visits within the prison facilities. Juveniles should be permitted to meet with family members in private;

- Arranging furloughs for juveniles to visit their homes;
- Encouraging juveniles and family members to write and telephone on a regular basis; and
- Allowing juveniles to keep personal possessions, such as family photographs and memorabilia in their sleeping areas.

International standards explain that, in the interest and well-being of the institutionalized juvenile, the parents or guardians have a right of access. They also have the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile.

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

Prison staff should arrange to have members of the community come in regular contact with detained juveniles via recreational, cultural, educational, or other programmes. Community volunteers can organize and run cultural, educational, ministry, and vocational activities.

Such ties can have a beneficial effect on both the juveniles and the volunteers: the juveniles maintain relationships with the community and its values while the community is less likely to ostracize the juveniles after they are released from prison.

Care must be taken though to ensure that volunteers coming into the prison have been carefully vetted – prevent unsuitable people befriending juveniles.

### **Preparation for Release**

*Discussion point:*

*What do you think an institution can do to prepare juveniles for release?*

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

Appointing a *case manager* can be a helpful way to make sure arrangements have been made for the juvenile to have a place to live, employment, and other basic requirements upon release.

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

**Rule 29 (1)** of the **Beijing Rules** states that:

### **Slide 22 - FACILITIES FOR REINTEGRATION**

'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.' (Rule 29(1) Beijing Rules)

### Restraint and punishment of juveniles

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

If such instruments are used, the prison director should immediately consult medical personnel.

The presence of weapons does not facilitate communication and positive relationship between staff and juvenile detainees. In particular **Rule 65** of the **Beijing Rules** states that:

### **Slide 23 - NO WEAPONS IN JUVENILE INSTITUTIONS**

'Weapons shall not be carried in institutions that hold juveniles.' (Rule 65 Beijing Rules)

Juveniles should never be put in isolation as a form of punishment or control. Similarly, corporal punishment, reduction of diet, restriction or denial of contact with family members must be prohibited. Collective sanctions should be prohibited.

### **Staff**

*Discussion point:*

*Do you think that there should be any special selection or training for staff working in juvenile institutions?*

Staff are very important in a juvenile facility. There should be a special selection procedure for staff working with juveniles. They need to be given special training.

Staff members working with juveniles should receive specialized training in child psychology, child welfare, and international standards regarding the rights of the

child. They should also be trained on suicide prevention, first aid, and HIV/AIDS awareness. Learning how to recognise and deal with bullying is also particularly important.

In order to refresh skills, share experience, and renew the motivation of staff working with juveniles, in-service training should be offered on a regular basis.

Where culturally appropriate juvenile detention centers should have mixed gender staffing. The presence of both male and female staff can have a beneficial effect in terms of both the custodial ethos and in fostering a degree of normality in a place of detention. In addition it allows for appropriate staff to carry out gender sensitive searches.

#### **Slide 24 - SMALL GROUP ACTIVITY**

##### **Small Group Activity**

- 1. What do the relevant provisions in the Law of Reform and Rehabilitation Centres have to say in relation to the following:**
  - **Pre-trial detainees**
  - **Juveniles**
- 2. Do you think that there are any differences when compared to the International Standards and Norms – both higher level of provision and shortfalls?**
- 3. What mechanisms exist in Palestine to monitor compliance? Are they effective?**

## SESSION 12

### SPECIAL CATEGORIES OF PRISONERS (PART 2)

#### Slide 1 - TITLE

#### SPECIAL CATEGORIES OF PRISONERS (2)

##### Duration:

2 Hours

##### Purpose:

The purpose of this session is to provide an overview to further special categories of prisoners. These include women prisoners, life and death sentence prisoners, those with drug addictions and those of minority ethnicities or who are foreign nationals.

##### Key Points:

#### Slide 2 - KEY POINTS

- Important for prison administration to recognise diversity amongst prisoners
- Certain groups of prisoners have requirements and circumstances that mean they need special consideration.
- Focus on specific needs of these groups of prisoners: Women; death sentence; life and long term; drug users; minority ethnic; foreign national; and disabled.

#### WOMEN

Around the world women form a small minority of those imprisoned. The average number is around 5 percent, although in recent times there has been a steeper rise in the number of women in prison when compared to the increase in the number of men.

This small number of women prisoners poses a specific problem for prison administrators. Since the vast majority of prisoners are men, prison systems tend to be run with men in mind as the norm.

*Discussion point:*

*What do you think is the major challenge to prison administrators in having a small number of women in the prison system? In what ways can the prison administration inadvertently discriminate against women in prison?*

Accommodating women poses difficulties because the numbers coming from each region are too small to require a special building. Women tend, therefore, to be located in makeshift buildings or in annexes to men's prisons. The alternative is to place them in special women's prisons, but this usually means placing them far from their homes and families.

Women face a particular problem in prison because of their role in the family. In the community, women often take responsibility for the family and children. Imprisonment therefore poses particularly severe problems for them and their families outside.

The situation of women in prison does not receive a great deal of attention in the international instruments. The key instruments are:

### Slide 3 - KEY INSTRUMENTS ON WOMEN PRISONERS

- [Convention on the Elimination of All Forms of Discrimination against Women](#)
- [UN SMR](#)
- [UN Congress on Crime Prevention and Criminal Justice](#) developing new supplementary rules for the treatment of women in detention

The general requirements of non-discrimination and equal treatment are set out clearly in the **Convention on the Elimination of All Forms of Discrimination against Women**. The convention prohibits any discrimination that denies to women the same protections and fundamental freedoms in all fields – political, economic, social, cultural and civil - as are accorded to men.

As previously mentioned, the **Standard Minimum Rules for the Treatment of Prisoners** apply to all prisoners, whatever their situation. The Rules also include special requirements regarding women.

First of all, **Rule 8 (a)** of the rules requires that men and women should be kept separate:

### Slide 4 - SEPARATION OF MEN AND WOMEN

[‘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 8(a))

This requirement for separation is given added force by the weight of evidence that shows that many women in prison have already been victims of physical or sexual abuse by men or have committed their offences in response to brutality or exploitation by men.

In the coercive environment of the prison women are particularly vulnerable. They require special safeguards to ensure that they are not harassed or abused in any way.

Measures necessary for preventing abuse of women prisoners by male prisoners or prison officials are clearly spelt out in **Rule 53** of the **Standard Minimum Rules**:

#### **Slide 5 - PREVENTING ABUSE OF WOMEN PRISONERS**

- (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 staff shall enter the part of the institution set aside for women unless accompanied by a women officer.
- (3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women. (Rule 53)

Women should never be supervised exclusively by male staff. Women are particularly vulnerable in the closed environment of a prison. They should never be placed in a situation where they are at risk of abuse or harassment by male members of staff.

When male staff deal with women prisoners, there should always be a female member of staff present.

#### **Mothers and babies**

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

Women who come into prison pregnant or as nursing mothers face great problems. To bring up a baby in prison is far from ideal, even if the prison conditions are hygienic and suitable. However, to separate a small baby from its mother is a serious decision to take.

**Rule 23** of the **Standard Minimum Rules** provides that:

#### **Slide 6 - BABIES AND CHILDREN IN PRISON**

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. (Rule 23)

It is clear that pregnant women should receive as high a level of care as is accorded in society outside. The preference is for babies to be born in an outside hospital.

If babies remain with their mothers in prison, proper care has to be provided.

*Discussion point:*

*If there are babies and young children are living in prisons with their mothers what special arrangements do you think will be needed?*

Rule 23 (2) makes clear:

### **Slide 7 - PRISON NURSERY**

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 23(3))

Jurisdictions vary in the rules they make about women prisoners' babies. Some countries allow mothers to keep their babies with them until they reach a certain age – everything from nine months to five years – and then the babies are taken away and cared for elsewhere.

Whatever the arrangements, it is highly likely that the mother's relationship with the child will be damaged by the fact that she is a prisoner. In each case, thought should be given to the best interests of the child and whether he or she should remain with the mother or be taken care of by other members of the family.

Special arrangements need to be in place to support mothers who have babies with them when the time comes for release.

### **Slide 8 - OTHER ISSUES REQUIRING CONSIDERATION**

- **Education, training work**
- **Security searches**
- **Healthcare**
- **Preparation for release**

## **Access to Education, Training and Work**

Because of their small numbers and often-inadequate accommodation, or because of the requirement for separation from men, women prisoners rarely have access to the same level of facilities for education and training as men do.

Women prisoners often find themselves restricted to work such as sewing or cleaning, childcare and other limited vocational opportunities.

Women prisoners should have access to facilities that are equal to those available to men.

As far as possible, they should be able to select the sort of work and training from which they can benefit.

Some women prisoners are likely to be single mothers and will need special support and training.

Help can sometimes be provided by local non-governmental organisations.

## **Security Searches**

Male members of staff should never search women prisoners.

The carrying of internal body searches of women is even more problematic and can cause enormous distress and feelings of humiliation to women prisoners.

## **Healthcare**

The specific health-care needs of women prisoners should be recognised by prison authorities.

Wherever possible, women doctors should be available for consultation. Women prisoners should also have access to specialist in women's healthcare (in particular, reproductive care).

Women have specific hygiene needs that should be addressed, including safe disposal arrangements for bloodstained articles and access to items such as sanitary towels and tampons.

## **Preparation for Release**

Women prisoners face special problems on release from prison.

*Discussion point:*

What problems do think these could be? What can be done to overcome them?

The stigma that faces many prisoners on release is likely to be experienced even more acutely by women.

One example is the difficulty that some women face in obtaining permission from the authorities for their children to be returned to them, since they may be regarded as “unfit mothers”.

## **DEATH PENALTY PRISONERS**

### **Slide 9 - DEATH PENALTY PRISONERS**

Prison administrations have no responsibility for the imposition of the death penalty, but they sometimes have to deal with its consequences and implementation – holding prisoners under sentence of death, sometimes for many years when there are lengthy appeal procedures or when a State has suspended executions but has not abolished the death penalty or commuted existing sentences.

Prison administrations are sometimes also responsible for carrying out executions. These tasks place a heavy burden on the staff that are involved.

The international human rights instruments assert the right to life while making an exception for the death penalty.

Abolition of the death penalty is encouraged in international instruments:

### **Slide 10 - ABOLOITION OF DEATH PENALTY**

#### **Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty**

‘Abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights.’

#### **International Covenant on Civil and Political Rights:**

‘Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.’ Article 6

For those countries where the death penalty still applies, the article goes on to say that it should be imposed:

### **Slide 11 - USE OF DEATH PENALTY**

#### **International Covenant on Civil and Political Rights:**

‘Only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the

provision of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.'

'Sentence of death shall not be imposed for crimes committed by persons below the age of eighteen years of age and shall not be carried out on pregnant women.' (Article 6)

*Discussion point:*

*What special considerations do you think should be applied to prisoners sentenced to death?*

Prisoners should not be held in unduly restrictive circumstances purely on the grounds that they have been sentenced to death.

The period for legal appeal against a sentence of death can sometimes be lengthy. There is no justification for holding such prisoners in solitary confinement or in an excessively restricted environment simply because they have been sentenced to death.

Prison staff must be particularly sensitive when supervising prisoners who are under sentence of death.

This sensitivity must be extended first to the prisoner, who is awaiting death, but also to his or her family and to the family of the victim if they have any contact with the prison.

Prisoners under sentence of death should be allowed to maintain contact with their family and friends, particularly by means of visits under appropriate conditions, and must be given every reasonable facility to prepare grounds for an appeal against sentence.

Supervising a prisoner who has been sentenced to death is a stressful responsibility, especially once a date for execution has been set. Staff who are in charge of prisoners under sentence of death should be carefully selected, and they should be given special training and support.

The knowledge that a prisoner is awaiting execution is likely to have an adverse effect on other prisoners.

## LIFE AND LONG-TERM PRISONERS

### Slide 12 - LIFE SENTENCE AND OTHER LONG SENTENCE PRISONERS

Some long-term and life-sentence prisoners are likely to be highly dangerous. Some of them will have committed horrendous crimes and would be a real threat to the safety of the public if they were to escape.

It is the responsibility of prison administrations to ensure that these prisoners do not escape and also that they do not present a threat to staff and other prisoners.

Managing these prisoners in a manner that is decent and humane - while at the same time ensuring the safety of other people - is a great challenge to professional prison management.

*Discussion point:*

*What do you think are the main challenges and issues in managing life and long-term prisoners?*

The most important issues in the management of life and long-term prisoners stem from the potential damage to the prisoners' mental well-being caused by the length of sentence or the uncertainty of the release date.

Prison administrators must help prisoners to plan their sentences in such a way as to maintain their sense of self-worth and avoid the dangers of institutionalization.

There is no reason why the provision of work, education and other activities should not apply to prisoners serving long, including life, sentences. These prisoners are more likely to become dislocated from their family and community and will therefore need more support in the rehabilitation process.

There is no operational justification for keeping prisoners in isolation, either as individuals or in a group, simply because of the length of their sentence. On the contrary, it is good management practice to keep prisoners fully occupied, in their own interests and those of the smooth running of the prison.

As previously mentioned in Session 9, the need for prisoners to maintain contact with the outside world is recognised in **Rule 37** of the **Standard Minimum Rules**:

### **Slide 13 - CONTACT WITH FAMILY AND FRIENDS**

'Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.' (Rule 37)

This rule is of particular importance to life-sentence prisoners, as the longer the period of imprisonment, the greater the strain on a prisoners' relationships in the outside world.

If a person who has been sentenced to a long term of imprisonment is to maintain emotional and physical health while in prison and eventually return safely to the community, he or she needs to be able to maintain and develop family links and contact.

### **DRUG USERS**

#### **Slide 14 - DRUG USERS**

One of the key responsibilities of any prison system is to reduce reoffending and protect the public. Necessarily, this involves the system addressing the underlying causes of prisoners' offending behaviour - a key factor of which is individuals' drugs-misuse. A high percentage of offenders are addicted to drugs (including alcohol) or other substances (such as glue or non-prescription medication).

Drugs-misuse amongst offenders being received into prison in many countries is on the increase, mirroring the rising levels of drugs-misuse generally in the community. Prisons have the greatest concentration of Problematic Drug Misusers present in one place at one time either in the healthcare or criminal justice systems.

*Discussion point:*

*What special considerations should apply to prisoner addicted to drugs?*

Detention in an adequate place providing treatment, counselling, therapy and healthcare can sometimes help to break the cycle of drug addicted of those in conflict with the law.

Medical and psychological assistance, in particular, are extremely important for drug addicts. Often, prison represents the first opportunity for offenders to have their drugs-misuse problems addressed in a coherent, structured way.

The demand for drug interventions, therefore, places the prison system under considerable pressure. Many of those imprisoned will seek to smuggle illegal drugs into jail during their sentences.

It is unrealistic to expect prisons to be totally drug-free.

Any attempt to achieve this would necessarily involve disproportionate, draconian measures that would undermine the prisons wider work that is geared towards reducing reoffending - for example, helping to maintain effective family ties, treating prisoners with decency and equipping them with the necessary skills to find meaningful employment on release.

Visits would need to become closed, denying prisoners close physical contact with families and friends; visitors would need to be subjected to far more intrusive searches – and this would not comply with human rights legislation.

Even with such oppressive measures in place, since prisons are effectively micro-communities, the need to admit contractors, receive mail, food and other deliveries potentially enables drugs to be smuggled in.

Adopting a broad-brush, draconian approach to all these areas would prevent prisons running effectively. They are, therefore, not an option.

Effective delivery of drugs interventions is key - until drug-misusing prisoners' addiction can be broken, less scope exists to introduce peer support, build on supportive family ties, or offer education and skills that will help offenders lead law-abiding lives on release.

## Slide 15 - DRUG STRATEGY

- Detoxification
- Reduce SUPPLY of drugs
- Reduce DEMAND for drugs
- Mandatory drug testing

All prison systems should have a **drugs strategy**, which is either part of a national drugs strategy or very closely linked to it. The Ministry of Health and the Ministry of Justice should work closely together to produce such a document. Broadly, the Strategy should be aimed at:

- Reducing the **supply of illegal drugs** into prison - through a range of practical supply reduction initiatives
- Reducing the **demand for drugs** amongst prisoners through effective treatment interventions - by assessing individuals' needs, clinically managing

their withdrawal from drug dependency, providing rehabilitation, support and voluntary drug testing programmes to encourage them to remain drug-free.

The range of drug interventions should address the needs of low, moderate and severe drug-misusing prisoners. The strategy and subsequent policy must be formulated following consultation with all grades of operational staff, in addition to all Ministries. Successful delivery of the Strategy will be heavily dependent upon establishing and maintaining close working partnerships with a range of bodies – particularly health services.

For those offenders whose sentence length is short, their engagement should focus on detoxification and low intensity short duration programmes.

One of the contentious areas is whether prisoners should be provided with detoxification or drug maintenance.

Detoxification services provide clinical support and intervention for drug misusers to help them achieve withdrawal from drug dependency. Maintenance involves prescribing drugs for prisoners which may be more appropriate for prisoners who are in short pre-trial detention or are serving short periods of custody and have been maintained on methadone in the community.

Clarity is needed in the strategy about whether users admitted to prison should be sent to hospital for detoxification or whether that is done in the prison.

Either way, they will require psychological support in prison, as the relapse rates are high.

Moving on to more intensive drug programmes, there is emerging evidence that prison-based drug treatment programmes are proving successful in reducing overall levels of re-offending post-release.

One of the key actions that has had an impact on both demand and supply of drugs in prison is **Mandatory and voluntary Drug Testing of prisoners**. Such a programme has three main objectives:

- To deter prisoners from misusing drugs - through fear of being caught and punished,
- To supply better information on patterns of drugs-misuse,
- To identify individuals in need of treatment.

## **MINORITY ETHNICITY**

It is important to remember then, that everyone has the right to freedom of thought, conscience and religion, and persons from ethnic, religious or linguistic minorities have the right to their own culture, religion and language.

### **Slide 16 - MINORITY ETHNIC PRISONERS**

#### **Universal Declaration of Human Rights**

'Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance. (Article 18)

*Discussion point:*

*In what ways do you think the prison administration can inadvertently discriminate against minority ethnic groups?*

Minority prisoners can be discriminated against in a variety of ways. Their cultural identity may involve differences in appearance, language, behaviour, food, religious beliefs and practices. These differences must be recognized as legitimate.

It must be recognized, too, that these differences can create tensions among prisoners and between prisoners and staff.

Prisons are hierarchical places. Prisoners from minority groups may be at the bottom of the hierarchy and so become the victims of ill-treatment and abuse.

**Rule 41 (3)** of the **Standard Minimum Rules** is important in terms of religion for minorities:

### **Slide 17 - ACCESS TO RELIGIOUS REPRESENTATIVE**

'Access to a qualified representative of any religion shall not be refused to any prisoner.' (Rule 41(3))

Most religions have specific practices that have to be observed. These requirements may involve:

- Ensuring that prisoners have the opportunity to pray at set times and under certain conditions;
- Dietary restrictions, such as not eating meat, not eating particular meat, or eating only food prepared under specific conditions;

- Dress requirements or customs about hair length.

A prisoner who does not adequately understand or speak the language used by the authorities is entitled to receive relevant information promptly in a language that he understands.

Prisons can be confusing places at the best of times. If the rules of the prison are not available in languages that all prisoners can understand, some may be penalised for breaking a rule which they did not know existed.

Prisoners who do not speak the main language of the prison need information in a language which they understand about prison regulations, what is expected of them and what their rights are.

Foreign prisoners should be allowed to talk during visits, and to correspond, in their own language.

Every effort should be made to recruit prison staff from ethnic and religious minorities, and staff should be given training to help them understand differences between cultures.

## **FOREIGN NATIONALS**

Prisoners who are foreign nationals also have specific needs.

They should be allowed reasonable facilities to communicate with appropriate diplomatic representatives.

As **Rule 38 (1)** of the **Standard Minimum Rules** states:

### **Slide 18 - FOREIGN NATIONAL PRISONERS**

‘Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.’ (Rule 38(1))

‘Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.’ Rule 38 (2)

It is also important to ensure that they:

- have access to the prison rules in their language,
- are permitted additional telephone calls if visits are not possible

- are able to have language lessons
- are protected from other prisoners if being bullied for being a foreigner

## **PRISONERS WITH DISABILITIES**

### **Slide 19 - PRISONERS WITH DISABILITIES**

Although figures relating to the number of prisoners with disabilities worldwide are scarce, some studies suggest that due to the growing number of people in prison in most countries, and the increase of older prisoners in some, there is also an increasing number for people with disabilities in prisons.

Specific principles are contained in the **UN Convention on the Rights of Persons with Disabilities**. This was adopted on the 13 December 2006 and applies to all persons with disabilities, including those facing criminal prosecution, detainees and prisoners.

### **Slide 20 - UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES**

States Parties undertake to ensure and promote the full realisation of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:

- (a) To adopt all appropriate legislation, administrative and other measures for the implementation of the rights recognised in the present Convention;
  - (b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
- (Article 4)

**Article 14** of the **Convention covers** a disabled persons right to liberty and security of person:

### **Slide 21 - RIGHT TO LIBERTY AND SECURITY OF THE PERSON**

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:
  - (a) Enjoy the right to liberty and security of person;
  - (b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

2. States parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation. (Article 14)

Further to everyone's rights to freedom from torture or cruel, inhuman or degrading treatment or punishment, **Article 15 (2)** of the **Convention** specifies that:

### **Slide 22 - RIGHT TO FREEDOM FROM TORTURE OR CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

'States parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.' (Article 15(2))

**Article 13** regards a disabled person's access to justice:

### **Slide 23 - ACCESS TO JUSTICE**

1. States Parties shall ensure effective access to justice for all persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff. (Article 13)

The difficulties of people with disabilities are magnified in prisons, because of the nature of the closed and restricted environment, violence from overcrowding and lack of proper prisoner differentiation amongst other things.

*Discussion point:*

*What special needs do you think that disabled people in prison may have?*

The special needs of prisoners with disabilities would depend on the nature of it, but there are key concerns that are common for all.

The attitude to staff is a key element in ensuring the protection of the human rights of prisoners with disabilities and reducing discrimination in prison. Prisoners with disabilities have the same human rights as all other prisoners and they should not be treated more harshly, isolated or taunted because of their condition. Where it is possible there should be a member of staff who acts as a contact point for people with disabilities, and as advisor to the management on their needs.

Prisoners with disabilities may have particular health care needs related to their disability such as physiotherapy, regular eyesight and hearing examinations and occupational therapy, some of which might be difficult to meet in prisons.

They also need access to tools and services that enable them to enjoy their human rights in prisons to the fullest possible extent, such as hearing aids, wheel chairs, canes and orthotics.

They should also be in accommodation suitable to their needs, while the risk of abuse by other prisoners should also be taken into account. Adaptations to accommodation should be made if it is necessary, such as handrails or ramps. Healthcare should also be easily accessible.

As for programmes and services, all possible measures should be made to ensure the equal access of prisoners with disabilities to prison activities, from education programmes to recreation. Cooperation with organisations of civil society is useful to design and run programmes useful for the needs of prisoners with disabilities.

So, in order to ensure the equal treatment of prisoners with disabilities and the protection of their human rights, prison authorities need to develop policies and strategies that address the needs of this vulnerable group in prisons.

Such policies should be informed by the **UN Convention on the Rights of Persons with Disabilities** and national legislation, and address issues such as staff training, classification, accommodation, health care, access to programmes and services, safety, preparation of release, early conditional release and compassionate release, as a priority.

## Slide 24 - SMALL GROUP ACTIVITY

### **Small Group Activity**

1. ***What do the relevant provisions in the Law of Reform and Rehabilitation Centres have to say in relation to the following:***
  - ***Women prisoners***
  - ***Death penalty, life and long term prisoners***
  - ***Prisoners belonging to minority ethnic groups***
  - ***Foreign prisoners***
  - ***Prisoners with disabilities***
  
2. ***Do you think that there are any differences when compared to the International Standards and Norms – both higher level of provision and shortfalls?***
  
3. ***Are the provisions in the law fully and effectively implemented? If not, what could be done to ensure compliance?***



## SESSION 13

### PRISON STAFF and ADMINISTRATION OF PRISONS

#### Slide 1 - TITLE

#### PRISON STAFF AND ADMINISTRATION

##### Duration:

1.5 Hours

##### Purpose:

The purpose of this session is to highlight that the prison staff are a critical element of the prison system. The main task of the prison administration is to hold men and women deprived of liberty in decent and humane conditions, and that the prison staff carries out this task.

##### Key Points:

#### Slide 2 - KEY POINTS

- Prison staff shall respect and protect human dignity and maintain and uphold the human rights of all prisoners.
- Prison staff should be carefully selected for their integrity, humanity, professional capacity and personal suitability.
- The conditions of service for prison staff should be adequate to attract and keep the best candidates.

##### Importance of Staff:

*Discussion point:*

*Why do you think that the prison staff are the most important feature of any prison system?*

Prison staff must be of a high calibre and carefully selected, because, as **Rule 46 (1)** of the **Standard Minimum Rules** states:

#### Slide 3 - IMPORTANCE OF PRISON STAFF

‘... It is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of the institution depends.’ (Rule 46(1))

Staff deal with prisoners on a daily basis, cater for their needs, are responsible for the smooth running of the prison and for security and safety, and identify and tackle problems.

The key challenge for staff and the prison director is to create a relaxed and constructive prison atmosphere.

The relationship between prisoners is complex and can only indirectly be influenced by staff. The more difficult prison life is the more prisoners' ability to survive and to stand up for themselves will emerge.

Staff who are aware of their duties and responsibilities will do what they can to maintain satisfactory contact with prisoners and to encourage prisoners to adopt a tolerant attitude to one another.

Good staff realise that it is in the interests of security to have a situation in which prisoners are reasonably reconciled to the deprivation of their liberty.

### **Organisation of Prison Administration:**

**Rule 1** of the **Standard Minimum Rules** states that the rules are

#### **Slide 4 - NO MODEL PRISON SYSTEM**

'not intended to describe in detail a model system of penal institutions'.  
(Rule 1)

The organisation of a prison however is important as to its capacity to meet the requirements explicitly or implicitly laid down in the rules, and other international regulations.

Some general characteristics of a desired organisation of a prison may be derived from the **Standard Minimum Rules**. As an organisation, a prison is part of a greater complex, generally that of a Ministry of Justice, or a Ministry of the Interior.

*Discussion point:*

*Do you think that the prison system should be part of the ministry of justice or ministry of interior? What are the arguments for and against each option?*

The relevant central authority should use legislation as a basis for the formulation of Rules that should clearly express a prison's objective.

At the very least, these rules will determine:

#### **Slide 5 - PRISON RULES**

- Security measures
- Rules governing the safety of prisoners and staff
- Measures to be taken to minimise the difference between society and prison,
- Conditions necessary to promote a prisoner's ultimate rehabilitation.

A prison is a hierarchical organisation, with a director at the top. It is the director's task to translate legislation and ministerial guidelines into policy and objectives. These objectives should be communicated to prison staff.

Optimal use must be made of the available staff in achieving objectives. This means that staff must be offered a certain amount of scope to define their own methods, while still remaining answerable to the director.

*Discussion point:*

*How much discretion do you think prison staff should have in their daily work? Or should all actions be prescribed in detail in Standing orders?*

Various conditions need to exist for staff to be professional in their work.

The various functions within a prison must be clearly defined, with the powers and obligations of individual members of staff being laid down.

It must also be clear to whom staff are accountable, and who should check on the performance of duties.

The more highly qualified the staff is, the more professional they will be, and the more freedom they should be allowed to make their own decisions.

Staff meetings, chaired by a unit head, are necessary if the quality of work is to be improved. Here information is exchanged with a view to improving relations with prisoners, making detention a more meaningful experience, identifying the problems perceived by staff and increasing job satisfaction and safety.

It is the duty of a unit head, if necessary in consultation with his superior, to optimise staff working conditions and further prisoners' interests as much as possible.

### **Role of Director**

The role of the prison director is arguably the most important role in the prison system.

*Discussion point:*

*Do you agree that the prison director is the most important role in the prison system? Why do you think that the role is so important?*

## **Slide 6 - ROLE OF PRISON DIRECTOR**

Responsible for the running of a penal establishment in all its elements:

- from keeping prisoners in custody and preventing escapes
- to ensuring that prisoners are looked after with humanity
- to helping them lead law abiding and useful lives in custody and after release

Whether or not someone is suitable as a director is to a great extent determined by aspects such as training, attitude and dedication – as **Rule 50 (1)** the **Standard Minimum Rules** makes clear:

## **Slide 7 - CRITERIA TO BE A DIRECTOR**

*'The director of an institution should be adequately qualified for his task by character, administrative ability, suitable training and experience'.  
(Rule 50(1))*

Two capabilities seem crucial for a prison director as they acting in an essentially hierarchical and rather formally regulated institution, namely:

- A sense of democratic and humane leadership
- Being an inspirational, motivating person.

Partly it is a matter of personality; partly it can and should be developed by highly qualified training.

*Discussion point:*

*What do you think are the most important things that a director should do? How should they behave?*

A director should know how to run an organisation, be well versed in the legal system, understand how society functions and be aware of the prison's place in society. A director also should be conscious of his or her position as a role model.

Subject matters which the director considers important usually will be regarded as important by the staff, and issues which the director considers unimportant will be neglected by the staff.

On the one hand, the director should monitor his or her personnel, while on the other he or she should foster an open attitude which allows staff a degree of creativity in the performance of their duties.

A director should be a visible figure within the prison, maintaining formal and informal contacts with his staff.

He or she should listen to problems, and solve them to the best of his or her ability, while at the same time demonstrating a critical attitude and ensuring that staff do their work properly.

He or she should keep an eye on the way officers work, and stamp out any abuses.

Prison directors should show a willingness to speak to prisoners, treating them first and foremost as human beings entitled to respect.

Directors should protect the interests of prisoners in the prison, acting for them in situations involving the staff or the world outside prison.

In their actions directors should be guided by the notion that it is in the interests of both prisoners and society to reduce to a minimum the difference between life in detention and life in society.

Directors should ensure that the organisation's interests are served in the sense that they should make every effort to obtain from the central authority such funds as are necessary to allow the organisation to function properly.

Directors should be aware that they have to account for their prisons' policy and also influence national penal policy. This entails enabling the central authority to carry out inspections, issuing regular policy reports and communicating openly with relevant bodies outside the prison.

A good prison furthermore maintains open communication with parliament and public media, who represent the people and the community and who can communicate the problems, needs, hopes and fears of prisoners and prison.

### **Role of Prison Officers**

## **Slide 8 - ROLE OF PRISON OFFICERS/GUARDS**

*Discussion point:*

*What do you think is the role of a prison officer/guard?*

Prison officers are not merely guards, whose sole task is to deprive people of their liberty.

They are certainly not vigilantes, whose task is to inflict greater punishment than that already imposed by the authorities.

Instead, prison officers have to combine a custodial role with an educational and reformative role. This requires great personal talent and professional skill.

### **Recruitment**

#### **Slide 9 - RECRUITMENT OF STAFF**

*Discussion point:*

*So what sort of people should be appointed as prison staff?*

Working in a prison can take its toll on staff.

On the one hand they are expected to maintain a high level of security and safety, while on the other they must constantly remember that prisoners will sooner or later be returning to society.

Prisons can be hotbeds of tension, with outbursts of violence from prisoners resenting their situation. Victims can include both staff and other prisoners.

To this end staff should be open and alert, good observers, and prepared to establish contacts with prisoners. This should be taken into account when selecting personnel, since it is important for staff not only to be aware of security but to have an eye for prisoners' needs.

Individuals who seek to become prison officers with a view to meting out extra punishment to prisoners do not belong in the system. Prisoners are punished by imprisonment itself.

The requirements will of course differ in the case of members of staff whose duties are of a purely clerical nature, or have some other ancillary function. They are simply

required to be competent for their duties, as well as to support in general terms the establishment's objectives.

**Rule 46 (1)** of the SMR simply says that:

### **Slide 10 - SELECTION OF PRISON STAFF**

'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'. (Rule 46(1))

'The personnel shall possess an adequate standard of education and intelligence'. (Rule 47(1))

All staff should therefore have an adequate degree of intelligence. This should be tested in the job interview and where possible in a psychological test. Social skills are also needed, since these are crucial to the maintenance of the delicate balance which exists within a prison.

A minimum requirement in respect of cognitive skills might be that a member of staff must at least be able to read and write and express him- or herself well in the language normally spoken in the prison.

In addition, candidates should meet certain psychological standards. When possible, prison staff must also consist of members of ethnic minority groups.

Recruitment and selection procedures should be explicit, clear, scrupulously fair and non-discriminatory.

Often prisoners from ethnic minorities are overrepresented. Staff with the same cultural background will be able to have better contacts with prisoners with the same background. This creates better working conditions for all staff and better circumstances for many prisoners.

### **Training**

### **Slide 11 - TRAINING OF PRISON STAFF**

'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'. (Rule 47)

*Discussion point:*

What training do you think new prison staff should receive?

A new prison officer should follow certain courses of basic training, in which his or her attitude is closely monitored. An attempt should be made to make this training as general as possible, in order to make members of staff fit for jobs elsewhere.

**Rule 85** of the **UN Rules for the Protection of Juveniles Deprived of their Liberty** emphasises the focus of training for those dealing with juveniles:

### **Slide 12 - TRAINING FOR STAFF WORKING WITH JUVENILES**

#### **UN Rules for the Protection of Juveniles Deprived of their Liberty**

‘The personnel should receive such training as will enable them to carry out their responsibilities effectively, in particular training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, including the present Rules.’  
(Rule 85)

Supplementary courses of training should be offered, depending on the function in question. It may be useful to join training courses for personnel of comparable establishments.

The prison administration needs to acknowledge the importance of well-trained staff and give staff the opportunity of following training courses during working hours. Training should also be paid for by the administration.

The better staff are trained, the better equipped they are to identify problem and dangers and take timely measures to reduce risks.

Training and development is not something just to be done at the beginning of one’s career, as the **Standard Minimum Rules** make clear:

### **Slide 13 - IN SERVICE TRAINING**

‘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’. (Rule 47(3))

Continued training should seek to enable staff to achieve continuous improvement and thereby promote increased professionalism.

Use could be made of institutions which provide training for staff of similar establishments, of academic expertise and of knowledge and experience of senior colleagues.

Training is best concluded by examinations, and to some extent promotion should be made dependent on performance during training. Training also could lead to a nationally recognised qualification in a particular subject or subjects.

## Conditions of Service

Work in a prison makes high demands on staff. And a tense environment takes its toll. It goes without saying that a job as difficult and demanding as this should be well paid and that the job can be done in an acceptable number of hours.

### Slide 14 - CONDITIONS OF SERVICE

'To secure the foregoing ends, personnel shall be appointed on a full-time 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'. (Rule 46(3))

Staff should be provided with decent facilities that should not be worse than those for prisoners. Wherever possible they should have restrooms, somewhere to buy and eat food, access to sport halls and the library.

Staff should have a contract in which the tasks are described and the number of working hours is mentioned.

It's the government's responsibility to ensure good working conditions. That means appropriate buildings in acceptable repair, good atmosphere and safe conditions.

Arrangements for cases of emergency should be made in favour of staff and prisoners.

Good pay is important for a number of reasons. Well-paid staff will function better, which will in turn reduce escapes, tension and resistance, and ultimately prisoners will toe the line.

Staff should have an income which enables them to enjoy a reasonable standard of living. They should earn enough to prevent them from having to take on extra jobs.

A further aspect of good pay is that it prevents staff from being vulnerable to bribes. Corruption in an establishment promotes lawlessness, injustice, fear, uncertainty, insecurity, revolt, and endangers lives. Ultimately, no-one stands to benefit.

It is advisable for prison officers to have a regular change of duties.

*Discussion point:*

Why do you think that it is important for staff to change their duties on a regular basis?

The basic aim should be to prevent staff from becoming bored and dispirited with their jobs, but the system will benefit from the fresh input provided by officers with experience of a related field of work.

### **Gender Issues:**

The **Standard Minimum Rules** assume almost complete segregation of the sexes and set out various safeguards in **Rule 53**:

#### **Slide 15 - GENDER ISSUES**

- (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 the 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. (Rule 53)

While this is perhaps appropriate for certain countries, others now regard strict distinction between the sexes as no longer necessary.

In the latter countries, women have secured a position on the labour market and are employed in men's prisons in a number of functions ranging from prison officer to director.

Equally, it is not uncommon in such countries for men to be employed in different capacities in women's prisons. It is felt that both sexes should enjoy equal opportunities in the field of employment, and that they should receive equal pay for doing the same work. Working mothers often have to see to a household in addition to their job. It is therefore advisable to make jobs available on a part-time basis.

*Discussion point:*

What do you think are some of the advantages and disadvantages of employing both sexes in a prison?

Those countries which employ prison officers of both sexes tend to find the experience positive. Female prison officers often reduce the level of aggression shown by male prisoners, as male officers working in a female prison may contribute

to better conditions. Also, the presence of both male and female staff has the advantage of creating a situation which more closely resembles society at large.

However, the presence of women in a male prison can also create sexual tension. Female officers can be approached - not only by prisoners but also by male colleagues - in a sexist way. They can experience sexual harassment, sometimes to a degree which makes it impossible for them to carry out their work properly. It is the duty of every member of staff to guard against the type of intimidating behaviour which seriously affects colleagues in the performance of their duties.

### **Specialist Staff**

Where possible, optimal use should be made of such specialists as are available.

**Rule 49 (1)** of the **Standard Minimum Rules** refer to a range of specialists:

#### **Slide 16 - SPECIALIST STAFF**

‘So far as possible, the personnel shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers and trade instructors’. (Rule 49(1))

The list is certainly not exhaustive, but highlights that a prison could for instance call upon the services of pastoral workers, librarians, sports instructors, placement officers, and nurses. These staff, too, should support the organisation’s objectives.

On the one hand, safety and security should be ensured. Specialists should not be involved in the day-to-day running of a prison, but should be called in when their services are required. They should, by virtue of their being called, be somewhat independent of the prison system, a situation which may enable them to win prisoners’ confidence, without, naturally, breaching security.

Specialist staff should be given an introduction by a senior member of the prison staff. Specialists need to understand why people are in prison, what happens in prison, what the important issues are and the importance of having a safe prison.

Specialists also need to know what they must do and must not do in order to help staff create and maintain that safety. At times that may lead to tensions between keeping confidence and issues concerning safety. It is only reasonable that prisoners be given the chance to consult specialists without interference.

Specialists should regard any information about prisoners they treat as confidential, only communicating it to members of their own profession, and with the approval of the prisoner.

#### **Slide 17 - SMALL GROUP ACTIVITY**

**Small Group Activity**

**1. What do the relevant provisions in the Law of Reform and Rehabilitation Centres have to say in relation to the following:**

- ***Prison director***
- ***Prison officer***
- ***Training and development***
- ***Conditions of service***
- ***Specialist staff***

**2. Do you think that there are any differences when compared to the international standards and norms – both higher level of provision and shortfalls?**

**3. Are the provisions in the law fully and effectively implemented? If not, what could be done to ensure compliance?**

## **SESSION 14**

### **SUMMARY AND NEXT STEPS**

#### **Slide 1 - TITLE**

#### **SUMMARY AND NEXT STEPS**

##### **Duration:**

2 Hours

##### **Purpose of session:**

The purpose of this session is to highlight the key themes covered in the course, to get participants to think about what they will do differently in their prisons, revisit the course objectives to see if they have been met and to give participants the opportunity to complete an evaluation form.

##### **Key themes from the course** (20 minutes)

Summarise the key themes from the proceeding 4 days.

#### **Slide 2 - KEY INTERNATIONAL INSTRUMENTS**

- Standard Minimum Rules
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- Basic Principles for the Treatment of Prisoners.

Remind participants that they have received copies of these documents – as well as a summary by theme contained in the pocket book.

Encourage participants to make use of these tools and refer to them as part of their work.

#### **Slide 3 - BASIC HUMAN RIGHTS**

- All human beings are equal in dignity and rights, rights that stem from universal human values.
- All persons deprived of their liberty shall be treated at all times with humanity and with respect for the inherent dignity of the human person.
- International human rights law is binding on all States and their agents, including prison officials.

- Prison staff should know, and be able to apply, international standards on human rights.

#### **Slide 4 - PHYSICAL CONDITIONS AND BASIC NEEDS**

- All prisoners have the right to an adequate standard of living, including adequate accommodation, clothing and bedding, food, and drinking water.
- Accommodation for prisoners should provide adequate space, lighting and ventilation. Prisoners required to share accommodation should be carefully selected and supervised.
- Adequate food and drinking water are human rights – all prisoners have the right to food at usual hours, and drinking water whenever needed.
- All prisoners not allowed to wear their own should be provided with suitable attire.
- Prisoners should be provided with separate beds and clean bedding, and facilities for keeping bedding clean should be in place.

#### **Slide 5 - ADMISSIONS AND RELEASE**

- Prisoners should be held in places that are officially recognised as places of custody.
- A detailed register shall be kept of every prisoner, and all prisoners shall be offered a proper medical examination and treatment as soon as possible after admission.
- All prisoners should be provided promptly with written information about the regulations that apply to their treatment and about their rights and obligations.

#### **Slide 6 - CONSTRUCTIVE ACTIVITY AND REHABILITATION**

- The main aim of the prison authorities in their treatment of prisoners should be to encourage personal reformation and social rehabilitation.
- The purpose of the prison regime should be to help prisoners to lead law-abiding and self-supporting lives after their release.
- All sentenced prisoners who are medically fit shall be required to work. As far as possible this shall give them skills for work in the outside world. Prisoners should be remunerated for the work they do.

- Education and cultural activities shall be provided and encouraged, including access to an adequate library. Education in prisons should be aimed at developing the whole person, taking account of a prisoner's social, economic and cultural background.
- All prisoners have the right to observe the tenets of their religion and to have access to a minister of that religion.

#### **Slide 7 - ORDER AND CONTROL**

- Prisons should be safe environments for all who live and work in them, and no one in a prison should fear for their physical safety.
- Order and discipline should be firm, but no more than is necessary for safe custody.
- All disciplinary offences and punishments must be specified by law or by published legal regulations.
- All cruel, inhuman or degrading punishments are completely prohibited, including corporal punishment or placing the prisoner in a dark cell.
- Prisoners who are subject to disciplinary action should have the right of appeal to a higher authority.

#### **Slide 8 - SECURITY**

- 'Physical Security' is walls, bars, locks and any other technological devices and perimeter sterile areas.
- 'Procedural Security' is proper categorisation and assessment, and includes searching procedures.
- 'Dynamic Security' is knowing what is going on in the prison based on positive relationships between staff and prisoners, and on keeping prisoners active.
- Use of force, including firearms, to prevent escape should be employed only when less extreme means are insufficient to prevent the escape.

#### **Slide 9 - HEALTH CARE**

- High standards of physical and mental health are rights of all prisoners.
- Access to the countries available health services should be free.
- Only medically qualified persons should make decisions regarding prisoner's health.

- No prisoner should be subjected to experimentation, either scientific or medical, which is detrimental to his or her health.

#### **Slide 10 - CONTACT WITH OUTSIDE WORLD**

- All prisoners have the right to communicate with the outside world, especially with their families.
- No one shall be subjected to arbitrary interference with his or her privacy, family, home or correspondence.
- Foreign Prisoners should be allowed to communicate with their diplomatic representatives.
- A prisoner's request to be held in a prison near his or her home shall be granted as far as possible.
- Prisoners shall be kept informed of important items of news.

#### **Slide 11 - COMPLAINTS**

- Every prisoner should have the right to make a complaint regarding his or her treatment and, unless the complaint is evidently frivolous, to have it dealt with promptly and, if requested, confidentially. If necessary, the complaint may be lodged on behalf of the prisoner by his or her legal representative or family.
- Every prisoner on admission shall be provided with written information on rules and on complaints and disciplinary procedures in a language that he or she understands. If necessary, these regulations should be explained orally.
- If a complaint is rejected or not responded to in a timely manner, the complainant shall be entitled to bring it before a judicial or other authority.

#### **Slide 12 - SPECIAL CATEGORIES OF PRISONERS**

- Certain groups of prisoners have requirements and circumstances that mean they need special consideration.
- Groups discussed included:
  - Gender (women)
  - Age (juveniles, older prisoners)
  - Health (mental health, HIV, contagious diseases)
  - Religion
  - Nationality (foreign prisoners)

- Sexuality (homosexual prisoners)
- Disability (mobility, sight, hearing)
- Status (pre-trial, civil)

### **Slide 13 - SMALL GROUP ACTIVITY**

#### **Small Group Activity (75 minutes)**

- 1. Divide the participants into four small groups.***
- 2. Ask each group to consider these questions and prepare a 10-minute presentation:***
  - What new things have they learnt?***
  - What would they like to do differently in the future?***
  - What are the opportunities and challenges in applying what they have learnt when they return to their prison duties?***
- 3. Give the groups 30 minutes to do the activity.***
- 4. Each group should then do their 10-minute presentation***
- 5. Summarise at the end***
  - Key points made during the presentations***
  - Highlight some good action points made during the presentations***

#### **Review of Objectives for the training (15 minutes)**

Remind participants of the learning objectives that you agreed on day 1 (below on slide 13)

And

Discuss with participants whether the learning objectives for the training course have been achieved.

### **Slide 14 - REVIEW OF LEARNING OF OBJECTIVES**

- To familiarise prison staff with the principles of human rights and human dignity and to establish an understanding of the importance of protecting and respecting these rights.

- To identify some of the most common and serious violations of human rights and human dignity in the prison setting.
- To enable prison officers to carry out their roles and responsibilities while preserving the human rights and human dignity of prisoners and to protect them from these abuses as may be carried out by others.
- To promote understanding among prison officers of the importance of applying international standards, and in particular the UN Standard Minimum Rules for the Treatment of Prisoners (SMR)) in managing prisons and to identify where gaps exist between current practices and those dictated by international standards.

**Evaluation sheets** (10 minutes)

Hand out evaluation sheets and ask participants to complete them in an honest way and particularly to include ideas and suggestions to improve the course.

## Chapter 6

### **HANDOUTS**

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1. Law of Reform and Rehabilitation Centres (1998)
2. UN Standard Minimum Rules for the Treatment of Prisoners (1955)
3. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988)
4. Basic Principles for the Treatment of Prisoners (1990)
5. Human Rights and Prisons: A Pocketbook of International Human Rights Standards for Prison Officials (2005)



**Law No. 6 of 1998:**  
**Concerning the Reform and**  
**Rehabilitation Centre**

**Part One**

1– Definitions

**Part Two – Centres and Supervision  
Thereof**

2 – Location and Number of Centres

3 – Appointment of Director General  
and Staff

4 – Responsibilities of Centre Director

5 – Inmate Records

**Part Three – Acceptance of Inmates**

6 – Inmate Admission Legal Memo /  
File

7 – Legal Detention of Inmates

8 – Searching of Inmates on Entry /  
Inmate Items

9 – Inmate Clothing

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10 – Ministry of Interior / Justice  
Inspection

11 – Attorney General Inspection  
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12 – Director General Periodic  
Inspections

**Part Five – Health Care and Medical  
Services**

13 – Details of Clinics and Physician  
Responsibilities

14 – Physician Inspection Principles

15 – Sick Inmate Guidelines

16 – Guidelines upon Death of  
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**Part Six – Notification of Inmates  
and Serving Judicial Papers upon  
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17 – Inmate Judicial Papers

18 – Inmate Complaints / Requests

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20 – Conditions when Directorate  
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21 – Warning Shot Procedure

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25 – Further Classification of Inmates

26 – Inmates in Civil Lawsuits

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35 - Libraries

36 – Inmate Books

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**Part Eleven – Transportation of Inmates**

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39 – Transfer Papers  
40 – Transportation Rules

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41– Training overview / Directorate General’s Regulations  
42 – Inmate Work  
43 - Inmate Work / Training Policy  
44– Inmate Wages

**Part Twelve - Commuting the Period of Punishment**

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47– Directors Reports on Long Term Inmates  
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**Part Fourteen – Banned Items**

49 – Policy on Banned Items being brought in  
50 – Searching for Banned Items  
51 – Directors Actions regarding Banned Items

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52 – Frequency and Timing of Visits  
53 – Inmates Right to Correspondence  
54 – Inmates Right to an Attorney  
55 – Religious Visits  
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57 – Directors Policy on Granting Leave

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60 – Postponement of the Death Penalty

**Part Seventeen – Discipline and Punishments Regulation**

61 – Disciplinary Regulations  
62 – Order of Disciplinary Punishments  
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64 – Inmate Release Regulations

**Part Nineteen – General Provisions**

65 – Ministers issuing of Regulations and Instructions necessary for the implementation of the law  
66 – Repeal of Contradictory Laws  
67- Implementation of the Law

**Law No. (6) for the Year 1998 AD.**  
**Concerning the Reform and Rehabilitation Centers**  
**"Prisons"**

Chairman of the Executive Committee of Palestine Liberation Organization

Chairman of Palestine National Authority

Upon review of the Prisons Law No. (3) for the year 1946 which is in force in Gaza Governorates, the Prisons Law No. (23) for the year 1952 which is in force in the West Bank Governorates and the draft law submitted by the Council of Ministers, and,

Upon the approval of the Legislative Council

We have promulgated the following Law:

## Part One

### Article One

The following words and expressions mentioned in this Law shall have the meanings assigned thereto hereunder unless the context provides otherwise.

- \* Ministry: Ministry of Interior
- \* Minister: Minister of Interior
- \* Center: Any place which has been declared as a reform and rehabilitation center pursuant to the Law.
  
- \* Inmate: Every person who is incarcerated in execution of a judgement which was passed by a penal or special court or detained under legal detention or any person who is referred to the Center in execution of a legal measure.
  
- \* Director General: The Director General of the Reform and Rehabilitation Centers.
  
- \* Director : The Director of the Reform and Rehabilitation Center who is entrusted with the assignment of supervising the Center or any other person who has been appointed to carry out the duties entrusted to the Director in whole or in part.
  
- Center's Warden: Is the Officer who is entrusted to supervise the Center.
  
- Directorate General: The Reform and Rehabilitation Centers Authority in Palestine which was been formed according to this Law.
  
- Banned Items: It is every item which is banned from being taken into the inmate in the Center and covers money, clothes, spirit drinks, narcotics, poisons, machines, tools, sticks, blades, knives, weapons of various types, food before testing, every article which is harmful to the body and life and any article where the inmate is prohibited from possessing pursuant to the provisions of this Law, Regulation and Instructions issued pursuant thereto.

## **Part Two**

### **Centers and Supervision Thereof**

#### Article Two

The Centers shall be established and the locations thereof shall be set by a decision from the Minister who may cancel them and stop, when necessary, the utilization thereof.

#### Article Three

The Centers shall be attached to the Ministry and the Directorate General shall manage and supervise them. The Director General shall be appointed by a decision from the Minister. However, the wardens of Centers shall be appointed by the Director General.

#### Article Four

The Director of the Center shall manage and run the Center's activities as well as execute the provisions of this law or any other regulations or instructions which are issued pursuant thereto under the supervision of the Director General of the Reform and Rehabilitation Centers or any other official he authorizes thereof.

#### Article Five

A numbered general register shall be kept for the inmates and daily book for the Center's incidents. A special file shall be established for every inmate. Such records and files shall be subject to the supervision and control of the Director who shall be responsible for their organization and fulfilling the particulars thereof.

## **Part Three**

### **Acceptance of Inmates**

#### Article Six

1 - The inmate admission into the Center shall be by a legal memo and it is prohibited to keep him in the Center following the expiry of legally fixed period in the memorandum.

2 - The Center's warden should substantiate the inmate's identity and lawfulness of the memorandum.

3 - A special file shall be opened in order to record the details pertaining to the inmate.

#### Article Seven

Whoever is detained, arrested, kept in custody or his freedom is confined according to the law shall be kept in one of the places which is determined by a decision from the Minister pursuant to article two of this Law and the inmates in any Center shall be deemed to be under legal detention in the custody of the Center's Director and be subject to the Center's discipline and regulations of the Directorate General.

## Article Eight

1 - The inmate shall be searched upon his entry into the Center and the banned items with him shall be impounded. The female inmate shall be searched by a female.

2 - The Center's warden shall keep the inmate's money and luggage he brings with him or which are sent to him vide receipts to be returned to him immediately upon his release.

3 - The inmate's money and luggage shall be handed over, in the event of his death, to his heirs.

4 - The right of the released inmate or his heirs in the event of his death in claiming his money or luggage shall drop upon the lapse of three years from the date of release or death and the ownership thereof shall inure to the State if no one comes forward to receive same during that period.

## Article Nine

1 - The inmate shall wear the Center's uniform.

2 - The inmate's clothes shall be destroyed if it has been discovered that they are harmful to public health if the term of his imprisonment is one year or less, However, if it is more, they shall be handed over to whoever selected by the inmate.

## **Part Four**

### **Inspection and Searching of Centers**

## Article Ten

1 - The Ministers of Interior and Justice or whoever either of them delegates shall have the right of access into any Center for the purpose of inspecting it and expressing the comments or suggestions they deem proper provided they are recorded in a special register.

2 - The Minister, in coordination with the Minister of Social Affairs, may appoint qualified social inspectors and specialists to study the inmate's psychological and social condition.

## Article Eleven

The Attorney General or his deputies, Governors and Judges of the higher and central court may, each in his sphere of competence, enter into all places of the Center at any time to inspect it for the purpose of ascertaining the following:

1 - Correctness of records, papers and entries relating to the Center's management, discipline and regulation.

2 - Inspect the inmates food in so far as its quantity and quality.

3 - Apply the stipulations of the laws and by-laws as well as take whatever they deem necessary in respect of the committed violations.

4 - None presence of an inmate individual without legal aspect.

5 - Execute the court's judgements and orders of the prosecution and investigation judge so as to be implemented in the manner shown therein. They may accept the complaints of inmates and express their comments. The Director should provide them with all the particulars they request in respect of the assignment entrusted to them.

Article Twelve

The Director General shall make periodical inspection visits to all Centers in order to ascertain the implementation of all regulations, instructions and decisions as well as submit his report in this regard to the Minister.

## **Part Five**

### **Health Care and Medical Services**

Article Thirteen

A clinic shall be set up in every Center and the Medical Services shall provide it with a physician and a number of nurses, necessary equipment and medicines. The physician shall carry out the following functions:

1 - Examine every inmate upon his entry into the Center and prior to his release. He shall prepare a report on his health condition showing therein the date and hour of preparation of such a report.

2 - Permanent health supervision of the inmates in the event of a food strike.

3 - Care of the inmates health and submit a periodical report thereon to the Director comprising his recommendations in this respect.

Article Fourteen

1 - The physician should inspect the sleeping places of inmates, solitary confinement, ascertaining the health condition of inmates, treating the sick persons thereof, transferring whose health condition require to the clinic or to the specialized hospital and isolate those who are suspected of being stricken with contagious or epidemical diseases until being cured and disinfect the clothes, beds and food .

2 - The period spent by the inmate in the hospital shall be calculated from among the decided period of sentence.

Article Fifteen

1 - The sick inmate shall be immediately referred to the hospital, if his condition requires so. The Center's management shall take the initiative to promptly notify the management's authority in whose competence his folks are living and shall be permitted to visit him. Should he, i.e. the inmate, passes away, the physician shall prepare a report comprising the following:

A - Date of the inmate's complaint of the sickness or the date in which it was firstly observed that he is sick.

B - Type of work which the inmate was carrying out on that day.

C - The day of his admission into the hospital for treatment.

D - The day and time of the physician's notification of the inmate's sickness condition.

E - Type of sickness and the last time the sick inmate was examined before his demise.

F - The date and reason of death as well as any other observations which the physician notices on the deceased upon his examination of the corpse.

2 - The inmate shall be considered during the period of his stay in the hospital or in any other place for treatment under legal custody and it shall be incumbent upon the warden to take the necessary measures to look after him while he is under treatment in a manner which would not touch on that inmate.

Article Sixteen

The Director or whoever acts for him must immediately notify the public prosecution or any competent authority of the death of any inmate who suddenly passes away or as a result of an accident or of his serious injury as well as of any crime which occurs by the inmates or against them or any serious accident whatsoever.

## **Part Six**

### **Notification of Inmates and Serving Judicial Papers Upon Them**

Article Seventeen

The Center's warden or whoever acts for him should advise the inmate of any judicial papers or any matters relating to him immediately upon its receipt by the Center's management and substantiation of its receipt in an official register.

Article Eighteen

The inmate has the right to submit any complaint or request. This shall be made through:

1 - Submitting his request or complaint on the form provided for this purpose.

2 - The recording of his request or complaint in a special register before forwarding same to the competent authority and shall be notified of the answer immediately upon its receipt.

## **Part Seven**

### **Cases of Use of Fire Arms**

Article Nineteen

It is prohibited for the Director or whoever acts for him or any member of the Center to enter into any cell where one of the inmates is in it unless he is accompanied by an escort.

Article Twenty

The members of the Directorate General are prohibited from carrying arms inside the Center except in the following necessary conditions:

1 - For self defense after exhausting all other means such as tear gas, water hoses or clubs.

2 - To prevent the escape of the inmate if he crosses the boundaries of the prisons and it was not possible to prevent him by other means.

3 - To put an end to any mutiny, riot or acts of violence that threatens the breaking of the Center's gates, climbing its walls or fore warns of the serious breach of the security and discipline therein.

4 - To ward off harm from the inmates or others who happen to be present in the Center upon being exposed to impending danger or harm and exhaustion of other means to save them.

#### Article Twenty One

If the fire arm is used to warn, scare or deter the inmate, three warning shots should be fired, if he does not comply , the fire arms should be shot towards his legs with due care, as far as possible, to avoid the serious injuries. The necessary first aid and treatment should be provided to the injured.

#### Article Twenty Two

The fire arms may not be used in the cases where the life of others is exposed to danger.

#### Article Twenty Three

The Director should notify the concerned authorities of the use of fire arms as well as commencing of the administrative investigation in order to learn of the reasons and motives of the incident.

## **Part Eight**

### **Classification of Inmates**

#### Article Twenty Four

The male inmates shall be placed in a section separate from the females whereby it would not be possible for them to talk, contact or see each other. The juveniles shall be placed in special centers for them.

#### Article Twenty Five

The inmates from every sex shall be classified and distributed in separate sections in as much as it is permitted under the circumstances of every Center:

1 - The detained inmates against whom no judgments have been passed by the competent courts.

2 - The inmates in civil lawsuits such as the lawsuit of debt and maintenance.

3 - The inmates with no precedents.

4 - The inmates with precedents.

#### Article Twenty Six

The detained or judgment debtors inmates in civil lawsuits have the right to bring in special food, clothes or covers from outside the Center.

#### Article Twenty Seven

The pregnant inmate shall be given, from the time of appearance of pregnancy symptoms thereon and until sixty days after delivery, special treatment in so far as nutrition, time of sleeping, work and shall be afforded with medical care according to the recommendation of the physician. The necessary measures shall be taken so that she may deliver at the hospital.

#### Article Twenty Eight

If the inmate delivers her baby in the center, this fact shall not be mentioned in the official records nor in the birth certificate. The hospital shall be considered as the place of birth and the child shall remain in the custody of his mother until he reaches the age of two year. The Director should provide for the suckling mother a separate place from the remaining inmates.

#### Article Twenty Nine

1 - If the inmate does not wish to keep her child with her after his delivery or if he reaches the age of two, he shall be delivered to the person who is legally entitled after the mother unless the physician decides that the health condition of the child does not permit same.

2 - If there is no one who has the lawful right of the child's custody, he shall be placed in one of children care institution's provided the mother is notified of the place where her child was placed and she shall be permitted to see him periodically.

### **Part Nine**

#### **Education & Culturing of Inmates**

#### Article Thirty

The Directorate General shall, in coordination with the competent education authorities, organize illiteracy fighting education courses to the illiterate inmates and shall provide the educational opportunities to other inmates in order to continue their education through the various educational stages whether in the schools attached to the Center or in the public or vocational schools outside same according to the available potentials, requirements of safeguarding the inmates and the Centers security.

#### Article Thirty One

The Directorate General shall, in coordination with the competent education authorities, provide the necessary pre-requisites to the inmates in order to enable them to study, memorize and find the means which would ensure the continuation of their university study as an exception from daily attendance and enable them to sit for the examinations under the direct supervision of the competent education authorities whether inside or outside the Center.

#### Article Thirty Two

The academic or vocational certificate awarded to the inmate should not contain any particulars which would indicate that it was awarded to him while he is in the Center or from a school annexed to the Center.

#### Article Thirty Three

The Directorate General shall grant suitable encouraging incentives to the inmate who obtains the general or university certificates during his stay in the Center.

#### Article Thirty Four

The Directorate General shall, in coordination with the Center's management, hold cultural seminars, deliver directive, moral, religious, educational and cultural lectures as well as provide the opportunity to all inmates to take part therein.

#### Article Thirty Five

A public library shall be established in every Center aimed at culturing and refining the inmates provided that it contains useful printed publications whose circulation is legally permitted. The inmates shall be encouraged to read and make use of such books and printed publications at their leisure time and shall be afforded the appropriate opportunities for the realization of same.

#### Article Thirty Six

The inmates may bring in, at their expense, books, magazines and newspapers whose circulation is legally permitted according to the controls determined by the Center's management in this regard according to the by-laws and instructions issued by the Directorate General.

### **Part Ten**

#### **Inmate Rights**

#### Article Thirty Seven

- 1 - It is prohibited to put the inmate to work at the houses or in the private matters
- 2 - It is prohibited to torture the inmate or to use force with him.
- 3 - It is prohibited to address the inmate in nasty language or in degrading names.
- 4 - It is prohibited for the members in the Center to eat with the inmate, his visitor or joke with him.
- 5 - It is prohibited to enter into the inmate's room during the night unless it is necessary and in presence of the Director or whoever acts for him.
- 6 - The inmate shall be afforded complete freedom to perform his religious rites and duties.
- 7 - The inmate shall take a bath at least twice a week during the summer and at least once a week during the winter.
- 8 - The inmate shall wash his face and extremities twice a day in the morning and evening.
- 9 - The inmate shall wash his clothes at least once a week.
- 10 - The inmate's hair shall be cut once a month.

11 - The inmate's hair who is convicted by imprisonment for three months or more shall be removed.

12 - The inmate shall shave his beard at least twice per week

13 - The Center's management shall provide the inmate's room with the means of heating during the cold days.

14 - The inmate's bed shall be comprised of a sponge mattress and five woolen blankets.

15 - The meals shall be distributed to the inmate in the place provided for this purpose in his room at the specified times.

16 - The dinner meal shall be distributed at sunset.

## **Part Eleven**

### **Transportation of Inmates**

#### Article Thirty Eight

The Director shall undertake the responsibility of executing every judicial order with respect to bringing an inmate or committing him to prison at the time set for this purpose.

#### Article Thirty Nine

The papers, effects and deposits of the inmate shall be transferred to the Center to which he is transferred.

#### Article Forty

1 - Upon transporting the inmate, the following shall be prohibited:

A - Expose him to the eyes of the public except to the least possible extent and measures must be taken to protect him from the insults and curiosity of the public as well as not to expose him to all forms of publicity.

B - Transport him under bad conditions in so far as ventilation, lighting or by any means which would expose him to unnecessary physical hardship.

## **Part Twelve**

### **Inmate's Training and Employment**

#### Article Forty One

The Center shall seek to train the inmates professionally and develop their skills as well as make them acquire beneficial trades or professions during the period of execution of the punishment which would help them earn their living after their release. The theoretical and practical vocational training shall be carried out in the training and employment workshops inside or outside the Center according to the regulations and instructions issued by the Directorate General in this respect.

#### Article Forty Two

1 - The convicted inmates may be put to work within or outside the area of the Center in any suitable job. It is not permissible to put the detained inmates to work unless they wish to do so provided that the daily working hours may not exceed eight hours and may not be put to work during their holidays.

2 - The sick inmates and those who have reached the age of sixty shall be excluded from the application of the provisions of paragraph (1) above unless they wish to work and the physician has testified to their ability to do so.

#### Article Forty Three

1 - The judgment debtor inmate by simple imprisonment may be put to work in light duty if he wishes to do so. The female inmate may not be put to work outside the Center.

2 - Save those who are sentenced to hard labor, the work in or outside the Center may not be characterized with cruelty or pain.

#### Article Forty Four

The inmate shall be granted, in consideration of his work in or outside the Center, a wage to be fixed by the regulations and instructions.

### **Part Thirteen**

#### **Commuting the Period of Punishment**

#### Article Forty Five

1 - The inmate shall be released if he spends two thirds of the period of judgement passed against him and was during such a period of good conduct and behavior and his release will not constitute a hazard to public security.

2 - If the punishment was life sentence, he shall be released if he spends twenty years in the Center and his conduct during same was good.

#### Article Forty Six

1 - The release shall be according to the preceding article by a decision from the Minister upon a proposal by the Director General. The decision shall specify the reasons of release.

2 - If the release is conditional, the released may be returned to the Center to complete the remaining period of sentence passed against him if his misconduct has been substantiated or if he violates the conditions of release by a decision from the Attorney General stating therein the reasons justifying the return.

#### Article Forty Seven

The Director should forward to the Director General a report on every inmate whose sentence is more than ten years following the lapse of the first six years showing therein all the particulars pertaining to the inmate provided that it is followed by a periodical report in every year which lapses from the remaining period.

#### Article Forty Eight

The Chairman of the National Authority may release some of the inmates on the national or religious occasions. The release shall be made at the time fixed in the pardon decision.

## **Part Fourteen**

### **Banned Items**

#### Article Forty Nine

The banned items may not be brought into the inmate in the Center. He may not possess or take same therefrom except within the extent permitted by the law.

#### Article Fifty

The Center's warden or whoever acts for him may inspect all things which are taken in or out of the Center. He may stop or order the stoppage of every person or inmate who is suspected of taking in or out or possesses any banned item to the Center. He may instruct his legal search. If such an item is discovered, he may impound same and refer the person with whom it was impounded to the competent authorities.

#### Article Fifty One

If no crime has resulted from the prohibited items the Director may:

- 1 - Use it in the manner he deems proper to the benefit of the inmates.
- 2 - Destroy it if it is of no use or value
- 3 - Sell it and pay the cost thereof to the public treasury of the Authority if it is of value.

## **Part Fifteen**

### **Visits**

#### Article Fifty Two

The visit to the inmate shall be permitted at regular periodical periods whose timings shall be set by the regulations and instructions provided that the first visit is permitted after the completion of investigations or lapse of a period of one month from the date of detention, whichever is earlier.

#### Article Fifty Three

The inmate has the right to correspond with his family and friends as well as receive letters from them. The Center's management may review the incoming letters to and outgoing letters from him provided that the secrecy of letters is maintained.

#### Article Fifty Four

The Attorney-At-Law of the detained or convicted inmate shall be permitted to meet with him in private whether the interview has been upon the invitation of the inmate or upon the request of the Attorney-At-Law.

#### Article Fifty Five

The Director may allow the visit to the sick inmate upon the directives of the physician and may also allow the religious people to visit the inmates for the

purpose of preaching and guidance or holding the religious rites at the times and places set by the regulations and instructions.

#### Article Fifty Six

1 - The Director may prepare a special visitors' register wherein the name and address of every visitor who enters the Center shall be recorded.

2 - He may search any visitor he suspects to possess banned items. If the visitor refuses to be subjected to search, he may be prevented from the visit and shall record the reasons of prevention in the said register.

#### Article Fifty Seven

1 - The Director may grant the inmate a three days contingent leave in the event of death or moving one of his relatives to the second degree to the hospital in a serious sick condition provided he provides a guarantor to guarantee him during the period of leave and return to the Center upon its expiry.

2 - The Director may grant the inmate of good conduct a twenty four hours leave every four months at least provided that he should have spent one fourth the period of his sentence and provided a guarantor to guarantee him during this leave.

#### Article Fifty Eight

The inmate shall be considered to be in an absconding state and referred to the competent court to try him for this crime if he does not return to the Center within twelve hours of the expiry of his leave.

### **Part Sixteen**

#### **Inmates Sentenced to Death**

#### Article Fifty Nine

1 - The inmates who is sentenced to death shall be isolated from the remaining inmates, placed under constant supervision and his visit barred except after obtaining a written permission from the Director General.

2 - The Attorney General, his representative one of the clergymen or the Center's physician may visit him at any time.

3 - The Director shall, upon receiving the decision sanctioning the death sentence, notify the inmate and his family or one of his relatives in order to visit him on the day preceding the day set for the execution of the judgement.

4 - The Director shall read out the charge and pronouncement of the judgement at a hearing distance from the attendees provided that the Attorney General or his Attorney, Center's Physician, a representative of the police and two other persons selected by the Attorney General and one of the a clergymen to whom the convicted is affiliated and his Attorney-At-Law, if he wishes, be amongst them.

5 - The death sentence shall be executed inside the Center upon the request of the Attorney General to the Director General. The corpse shall be handed over to the local authority where the Center is located in its circuit for its burial.

#### Article Sixty

1 - The execution of the death sentence against the pregnant inmate who is sentenced to death shall be suspended until after delivery and the child becomes two years of age.

2 - The said judgement shall not be executed during official holidays and religious and national feasts.

3 - The execution of the death sentence may not be postponed after receiving the sanctioning decision on the judgement and notification of the convicted person and his family of the matter.

### **Part Seventeen**

#### **Discipline and Punishments Regulation**

#### Article Sixty One

1 - The Minister shall issue a by-law which would regulate the duties and activities which the inmate should comply with as well as the impermissibles which should be avoided.

2 - The inmate should be advised of the organizational by-law mentioned in the preceding item.

3 - Without prejudice to the criminal liability, the inmate shall be disciplined if he violates the laws or regulations and instructions in force in the Center.

4 - The articles relating to the crimes and punishments shall be recorded on a sign and placed in a conspicuous place on the outside door of the Center and in the inmates' dining room in order to review same.

#### Article Sixty Two

The following disciplinary punishments shall be imposed against the inmate if he violates the regulations or instructions inside the Center:

1 - Warning

2 - Solitary confinement for a period not exceeding one week.

3 - Deprivation from some of the established advantages for his category of inmates for a period not exceeding thirty days.

#### Article Sixty Three

It shall not be permissible to impose any of the punishments mentioned in the foregoing article against the inmates except after conducting an investigation comprising his confrontation with the violation attributed to him, hear his statement and realize his defense. The decision for the imposition of the penalty shall be justified and the investigations shall be conducted with the knowledge of the investigator in writing. The penalties imposed against the inmates shall be recorded in the Penalties Register.

### **Part Eighteen**

## **Release of Inmates**

### Article Sixty Four

1 - The Director should release the inmate in the afternoon of the day in which his sentence expired or the day preceding same. He may not be kept in the Center thereafter.

2 - The inmate shall be released immediately if a general or special pardon is issued in his favour.

3 - If the inmate is under a precautionary detention and a release order in his favour has been issued. The release order must be implemented immediately unless he is detained for another reason.

## **Part Nineteen**

### **General Provisions**

#### Article Sixty Five

The Minister shall issue the regulations and instructions which are necessary for the implementation of this law.

#### Article Sixty Six

Each of the Prisons Law No. (3) for the year 1946 in force in Gaza Governorates and Prisons Law No. (23) for the year 1952 in force in the West Bank Governorates as well as any other provisions which are contradictory with its provisions shall be repealed.

#### Article Sixty Seven

All parties, each in so far as it is concerned, shall implement this law and shall be put into operation as of the date of its publication in the official gazette.

**Issued at Gaza on 28<sup>th</sup> May 1998 AD - corresponding to 2/2/1419 AH**

**Yasser Arafat**

**Chairman of the Executive Committee of the Palestine Liberation Organization  
Chairman of the Palestinian National Authority**



## **Standard Minimum Rules for the Treatment of Prisoners**

**Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977**

### **PRELIMINARY OBSERVATIONS**

1. The following rules are not intended to describe in detail a model system of penal institutions. They seek only, on the basis of the general consensus of contemporary thought and the essential elements of the most adequate systems of today, to set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions.

2. In view of the great variety of legal, social, economic and geographical conditions of the world, it is evident that not all of the rules are capable of application in all places and at all times. They should, however, serve to stimulate a constant endeavour to overcome practical difficulties in the way of their application, in the knowledge that they represent, as a whole, the minimum conditions which are accepted as suitable by the United Nations.

3. On the other hand, the rules cover a field in which thought is constantly developing. They are not intended to preclude experiment and practices, provided these are in harmony with the principles and seek to further the purposes which derive from the text of the rules as a whole. It will always be justifiable for the central prison administration to authorize departures from the rules in this spirit.

4. (1) Part I of the rules covers the general management of institutions, and is applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to "security measures" or corrective measures ordered by the judge.

(2) Part II contains rules applicable only to the special categories dealt with in each section. Nevertheless, the rules under section A, applicable to prisoners under sentence, shall be equally applicable to categories of prisoners dealt with in sections B, C and D, provided they do not conflict with the rules governing those categories and are for their benefit.

5. (1) The rules do not seek to regulate the management of institutions set aside for young persons such as Borstal institutions or correctional schools, but in general part I would be equally applicable in such institutions.

(2) The category of young prisoners should include at least all young persons who come within the jurisdiction of juvenile courts. As a rule, such young persons should not be sentenced to imprisonment.

### **Part I**

#### **RULES OF GENERAL APPLICATION**

##### **Basic principle**

6. (1) The following rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

(2) On the other hand, it is necessary to respect the religious beliefs and moral precepts of the group to which a prisoner belongs.

##### **Register**

7. (1) In every place where persons are imprisoned there shall be kept a bound registration book with numbered pages in which shall be entered in respect of each prisoner received:

- ( a ) Information concerning his identity;
- ( b ) The reasons for his commitment and the authority therefor;
- ( c ) The day and hour of his admission and release.

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

### **Separation of categories**

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 parts 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.

### **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-jackets, 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.

### **Information to and complaints by 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.

### **Contact with the outside world**

37. Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.

38. (1) Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.

(2) Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.

39. Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the administration.

### **Books**

40. Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.

### **Religion**

41. (1) If the institution contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.

(2) A qualified representative appointed or approved under paragraph (1) shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his religion at proper times.

(3) Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his attitude shall be fully respected.

42. So far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination.

### **Retention of prisoners' property**

43. (1) All money, valuables, clothing and other effects belonging to a prisoner which under the regulations of the institution he is not allowed to retain shall on his admission to the institution be placed in safe custody. An inventory thereof shall be signed by the prisoner. Steps shall be taken to keep them in good condition.

(2) On the release of the prisoner all such articles and money shall be returned to him except in so far as he has been authorized to spend money or send any such property out of the institution, or it has been found necessary on hygienic grounds to destroy any article of clothing. The prisoner shall sign a receipt for the articles and money returned to him.

(3) Any money or effects received for a prisoner from outside shall be treated in the same way.

(4) If a prisoner brings in any drugs or medicine, the medical officer shall decide what use shall be made of them.

#### **Notification of death, illness, transfer, etc.**

44. (1) Upon the death or serious illness of, or serious injury to a prisoner, or his removal to an institution for the treatment of mental affections, the director shall at once inform the spouse, if the prisoner is married, or the nearest relative and shall in any event inform any other person previously designated by the prisoner.

(2) A prisoner shall be informed at once of the death or serious illness of any near relative. In case of the critical illness of a near relative, the prisoner should be authorized, whenever circumstances allow, to go to his bedside either under escort or alone.

(3) Every prisoner shall have the right to inform at once his family of his imprisonment or his transfer to another institution.

#### **Removal of prisoners**

45. (1) When the prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.

(2) The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited.

(3) The transport of prisoners shall be carried out at the expense of the administration and equal conditions shall obtain for all of them.

#### **Institutional 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 full-time 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 example 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.

54. (1) Officers of the institutions shall not, in their relations with the prisoners, use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Officers who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the director of the institution.

(2) Prison officers shall be given special physical training to enable them to restrain aggressive prisoners.

(3) Except in special circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should in no circumstances be provided with arms unless they have been trained in their use.

### **Inspection**

55. 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**

### **RULES APPLICABLE TO SPECIAL CATEGORIES**

#### **A. Prisoners under sentence**

### **Guiding principles**

56. The guiding principles hereafter are intended to show the spirit in which penal institutions should be administered and the purposes at which they should aim, in accordance with the declaration made under Preliminary Observation 1 of the present text.

57. Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation.

58. 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.

59. To this end, the institution should utilize all the remedial, educational, moral, spiritual and other forces and forms of assistance which are appropriate and available, and should seek to apply them according to the individual treatment needs of the prisoners.

60. (1) The regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.

(2) 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. There should be in connection with every institution social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his family and with valuable social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.

62. The medical services of the institution shall seek to detect and shall treat any physical or mental illnesses or defects which may hamper a prisoner's rehabilitation. All necessary medical, surgical and psychiatric services shall be provided to that end.

63. (1) The fulfilment of these principles requires individualization of treatment and for this purpose a flexible system of classifying prisoners in groups; it is therefore desirable that such groups should be distributed in separate institutions suitable for the treatment of each group.

(2) These institutions need not provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different groups. Open institutions, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to rehabilitation for carefully selected prisoners.

(3) It is desirable that the number of prisoners in closed institutions should not be so large that the individualization of treatment is hindered. In some countries it is considered that the population of such institutions should not exceed five hundred. In open institutions the population should be as small as possible.

(4) On the other hand, it is undesirable to maintain prisons which are so small that proper facilities cannot be provided.

64. 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.

### **Treatment**

65. The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility.

66. (1) To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his social and criminal history, his physical and mental capacities and aptitudes, his personal temperament, the length of his sentence and his prospects after release.

(2) For every prisoner with a sentence of suitable length, the director shall receive, as soon as possible after his admission, full reports on all the matters referred to in the foregoing paragraph. Such reports shall always include a report by a medical officer, wherever possible qualified in psychiatry, on the physical and mental condition of the prisoner.

(3) The reports and other relevant documents shall be placed in an individual file. This file shall be kept up to date and classified in such a way that it can be consulted by the responsible personnel whenever the need arises.

### **Classification and individualization**

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.

### **Privileges**

70. Systems of privileges appropriate for the different classes of prisoners and the different methods of treatment shall be established at every institution, in order to encourage good conduct, develop a sense of responsibility and secure the interest and co-operation of the prisoners in their treatment.

### **Work**

71. (1) Prison labour must not be of an afflictive nature.

(2) All prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer.

(3) Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.

(4) So far as possible the work provided shall be such as will maintain or increase the prisoners, ability to earn an honest living after release.

(5) Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.

(6) Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, the prisoners shall be able to choose the type of work they wish to perform.

72. (1) The organization and methods of work in the institutions shall resemble as closely as possible those of similar work outside institutions, so as to prepare prisoners for the conditions of normal occupational life.

(2) The interests of the prisoners and of their vocational training, however, must not be subordinated to the purpose of making a financial profit from an industry in the institution.

73. (1) Preferably institutional industries and farms should be operated directly by the administration and not by private contractors.

(2) Where prisoners are employed in work not controlled by the administration, they shall always be under the supervision of the institution's personnel. Unless the work is for other departments of the government the full normal wages for such work shall be paid to the administration by the persons to whom the labour is supplied, account being taken of the output of the prisoners.

74. (1) The precautions laid down to protect the safety and health of free workmen shall be equally observed in institutions.

(2) Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workmen.

75. (1) The maximum daily and weekly working hours of the prisoners shall be fixed by law or by administrative regulation, taking into account local rules or custom in regard to the employment of free workmen.

(2) The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of the prisoners.

76. (1) There shall be a system of equitable remuneration of the work of prisoners.

(2) Under the system prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.

(3) The system should also provide that a part of the earnings should be set aside by the administration so as to constitute a savings fund to be handed over to the prisoner on his release.

#### **Education and recreation**

77. (1) Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.

(2) So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

78. Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners.

#### **Social relations and after-care**

79. Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both.

80. From the beginning of a prisoner's sentence consideration shall be given to his future after release and he shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interests of his family and his own social rehabilitation.

81. (1) Services and agencies, governmental or otherwise, which assist released prisoners to re-establish themselves in society shall ensure, so far as is possible and necessary, that released prisoners be provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.

(2) The approved representatives of such agencies shall have all necessary access to the institution and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his sentence.

(3) It is desirable that the activities of such agencies shall be centralized or co-ordinated as far as possible in order to secure the best use of their efforts.

#### **B. Insane and mentally abnormal prisoners**

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.

### **C. Prisoners under arrest or awaiting trial**

84. (1) Persons arrested or imprisoned by reason of a criminal charge against them, who are detained either in police custody or in prison custody (jail) but have not yet been tried and sentenced, will be referred to as "untried prisoners" hereinafter in these rules.

(2) Unconvicted prisoners are presumed to be innocent and shall be treated as such.

(3) Without prejudice to legal rules for the protection of individual liberty or prescribing the procedure to be observed in respect of untried prisoners, these prisoners shall benefit by a special regime which is described in the following rules in its essential requirements only.

85. (1) Untried prisoners shall be kept separate from convicted prisoners.

(2) Young untried prisoners shall be kept separate from adults and shall in principle be detained in separate institutions.

86. Untried prisoners shall sleep singly in separate rooms, with the reservation of different local custom in respect of the climate.

87. Within the limits compatible with the good order of the institution, untried prisoners may, if they so desire, have their food procured at their own expense from the outside, either through the administration or through their family or friends. Otherwise, the administration shall provide their food.

88. (1) An untried prisoner shall be allowed to wear his own clothing if it is clean and suitable.

(2) If he wears prison dress, it shall be different from that supplied to convicted prisoners.

89. An untried prisoner shall always be offered opportunity to work, but shall not be required to work. If he chooses to work, he shall be paid for it.

90. An untried prisoner shall be allowed to procure at his own expense or at the expense of a third party such books, newspapers, writing materials and other means of occupation as are compatible with the interests of the administration of justice and the security and good order of the institution.

91. An untried prisoner shall be allowed to be visited and treated by his own doctor or dentist if there is reasonable ground for his application and he is able to pay any expenses incurred.

92. An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.

93. For the purposes of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal adviser with a view to his defence and to prepare and hand to him confidential instructions. For these purposes, he shall if he so desires be supplied with writing material. Interviews between the prisoner and his legal adviser may be within sight but not within the hearing of a police or institution official.

### **D. Civil prisoners**

94. In countries where the law permits imprisonment for debt, or by order of a court under any other non-criminal process, persons so imprisoned shall not be subjected to any greater restriction or severity than is necessary to ensure safe custody and good order. Their treatment shall be not less favourable than that of untried prisoners, with the reservation, however, that they may possibly be required to work.

#### **E. Persons arrested or detained without charge**

95. Without prejudice to the provisions of article 9 of the International Covenant on Civil and Political Rights, persons arrested or imprisoned without charge shall be accorded the same protection as that accorded under part I and part II, section C. Relevant provisions of part II, section A, shall likewise be applicable where their application may be conducive to the benefit of this special group of persons in custody, provided that no measures shall be taken implying that re-education or rehabilitation is in any way appropriate to persons not convicted of any criminal offence.

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

**Adopted by General Assembly resolution 43/173 of 9 December 1988**

### **Scope of the Body of Principles**

These principles apply for the protection of all persons under any form of detention or imprisonment.

### **Use of Terms**

For the purposes of the Body of Principles:

( a ) "Arrest" means the act of apprehending a person for the alleged commission of an offence or by the action of an authority;

( b ) "Detained person" means any person deprived of personal liberty except as a result of conviction for an offence;

( c ) "Imprisoned person" means any person deprived of personal liberty as a result of conviction for an offence;

( d ) "Detention" means the condition of detained persons as defined above;

( e ) "Imprisonment" means the condition of imprisoned persons as defined above;

( f ) The words "a judicial or other authority" means a judicial or other authority under the law whose status and tenure should afford the strongest possible guarantees of competence, impartiality and independence.

### **Principle 1**

All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.

### **Principle 2**

Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose.

### **Principle 3**

There shall be no restriction upon or derogation from any of the human rights of persons under any form of detention or imprisonment recognized or existing in any State pursuant to law, conventions, regulations or custom on the pretext that this Body of Principles does not recognize such rights or that it recognizes them to a lesser extent.

### **Principle 4**

Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority.

### **Principle 5**

1. These principles shall be applied to all persons within the territory of any given State, without distinction of any kind, such as race, colour, sex, language, religion or religious belief, political or other opinion, national, ethnic or social origin, property, birth or other status.

2. Measures applied under the law and designed solely to protect the rights and special status of women, especially pregnant women and nursing mothers, children and juveniles, aged, sick or handicapped persons shall not be deemed to be discriminatory. The need for, and the application of, such measures shall always be subject to review by a judicial or other authority.

#### **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. 1 No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

#### **Principle 7**

1. States should prohibit by law any act contrary to the rights and duties contained in these principles, make any such act subject to appropriate sanctions and conduct impartial investigations upon complaints.

2. Officials who have reason to believe that a violation of this Body of Principles has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial powers.

3. Any other person who has ground to believe that a violation of this Body of Principles has occurred or is about to occur shall have the right to report the matter to the superiors of the officials involved as well as to other appropriate authorities or organs vested with reviewing or remedial powers.

#### **Principle 8**

Persons in detention shall be subject to treatment appropriate to their unconvicted status. Accordingly, they shall, whenever possible, be kept separate from imprisoned persons.

#### **Principle 9**

The authorities which arrest a person, keep him under detention or investigate the case shall exercise only the powers granted to them under the law and the exercise of these powers shall be subject to recourse to a judicial or other authority.

#### **Principle 10**

Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.

#### **Principle 11**

1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.

2. A detained person and his counsel, if any, shall receive prompt and full communication of any order of detention, together with the reasons therefor.

3. A judicial or other authority shall be empowered to review as appropriate the continuance of detention.

#### **Principle 12**

1. There shall be duly recorded:

( a ) The reasons for the arrest;

( b ) The time of the arrest and the taking of the arrested person to a place of custody as well as that of his first appearance before a judicial or other authority;

( c ) The identity of the law enforcement officials concerned;

( d ) Precise information concerning the place of custody.

2. Such records shall be communicated to the detained person, or his counsel, if any, in the form prescribed by law.

### **Principle 13**

Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively with information on and an explanation of his rights and how to avail himself of such rights.

### **Principle 14**

A person who does not adequately understand or speak the language used by the authorities responsible for his arrest, detention or imprisonment is entitled to receive promptly in a language which he understands the information referred to in principle 10, principle 11, paragraph 2, principle 12, paragraph 1, and principle 13 and to have the assistance, free of charge, if necessary, of an interpreter in connection with legal proceedings subsequent to his arrest.

### **Principle 15**

Notwithstanding the exceptions contained in principle 16, paragraph 4, and principle 18, paragraph 3, communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.

### **Principle 16**

1. Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody.

2. If a detained or imprisoned person is a foreigner, he shall also be promptly informed of his right to communicate by appropriate means with a consular post or the diplomatic mission of the State of which he is a national or which is otherwise entitled to receive such communication in accordance with international law or with the representative of the competent international organization, if he is a refugee or is otherwise under the protection of an intergovernmental organization.

3. If a detained or imprisoned person is a juvenile or is incapable of understanding his entitlement, the competent authority shall on its own initiative undertake the notification referred to in the present principle. Special attention shall be given to notifying parents or guardians.

4. Any notification referred to in the present principle shall be made or permitted to be made without delay. The competent authority may however delay a notification for a reasonable period where exceptional needs of the investigation so require.

**Principle 17**

1. A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.
2. If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.

**Principle 18**

1. A detained or imprisoned person shall be entitled to communicate and consult with his legal counsel.
2. A detained or imprisoned person shall be allowed adequate time and facilities for consultation with his legal counsel.
3. The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order.
4. Interviews between a detained or imprisoned person and his legal counsel may be within sight, but not within the hearing, of a law enforcement official.
5. Communications between a detained or imprisoned person and his legal counsel mentioned in the present principle shall be inadmissible as evidence against the detained or imprisoned person unless they are connected with a continuing or contemplated crime.

**Principle 19**

A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.

**Principle 20**

If a detained or imprisoned person so requests, he shall if possible be kept in a place of detention or imprisonment reasonably near his usual place of residence.

**Principle 21**

1. It shall be prohibited to take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess, to incriminate himself otherwise or to testify against any other person.
2. No detained person while being interrogated shall be subject to violence, threats or methods of interrogation which impair his capacity of decision or his judgement.

**Principle 22**

No detained or imprisoned person shall, even with his consent, be subjected to any medical or scientific experimentation which may be detrimental to his health.

**Principle 23**

1. The duration of any interrogation of a detained or imprisoned person and of the intervals between interrogations as well as the identity of the officials who conducted the interrogations and other persons present shall be recorded and certified in such form as may be prescribed by law.
2. A detained or imprisoned person, or his counsel when provided by law, shall have access to the information described in paragraph 1 of the present principle.

**Principle 24**

A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge.

**Principle 25**

A detained or imprisoned person or his counsel shall, subject only to reasonable conditions to ensure security and good order in the place of detention or imprisonment, have the right to request or petition a judicial or other authority for a second medical examination or opinion.

**Principle 26**

The fact that a detained or imprisoned person underwent a medical examination, the name of the physician and the results of such an examination shall be duly recorded. Access to such records shall be ensured. Modalities therefore shall be in accordance with relevant rules of domestic law.

**Principle 27**

Non-compliance with these principles in obtaining evidence shall be taken into account in determining the admissibility of such evidence against a detained or imprisoned person.

**Principle 28**

A detained or imprisoned person shall have the right to obtain within the limits of available resources, if from public sources, reasonable quantities of educational, cultural and informational material, subject to reasonable conditions to ensure security and good order in the place of detention or imprisonment.

**Principle 29**

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.

**Principle 30**

1. The types of conduct of the detained or imprisoned person that constitute disciplinary offences during detention or imprisonment, the description and duration of disciplinary punishment that

may be inflicted and the authorities competent to impose such punishment shall be specified by law or lawful regulations and duly published.

2. A detained or imprisoned person shall have the right to be heard before disciplinary action is taken. He shall have the right to bring such action to higher authorities for review.

### **Principle 31**

The appropriate authorities shall endeavour to ensure, according to domestic law, assistance when needed to dependent and, in particular, minor members of the families of detained or imprisoned persons and shall devote a particular measure of care to the appropriate custody of children left with out supervision.

### **Principle 32**

1. A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful.

2. The proceedings referred to in paragraph 1 of the present principle shall be simple and expeditious and at no cost for detained persons without adequate means. The detaining authority shall produce without unreasonable delay the detained person before the reviewing authority.

### **Principle 33**

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.

### **Principle 34**

Whenever the death or disappearance of a detained or imprisoned person occurs during his detention or imprisonment, an inquiry into the cause of death or disappearance shall be held by a judicial or other authority, either on its own motion or at the instance of a member of the family of such a person or any person who has knowledge of the case. When circumstances so warrant, such an inquiry shall be held on the same procedural basis whenever the death or disappearance occurs shortly after the termination of the detention or imprisonment. The findings of such inquiry or a report thereon shall be made available upon request, unless doing so would jeopardize an ongoing criminal investigation.

### **Principle 35**

1. Damage incurred because of acts or omissions by a public official contrary to the rights contained in these principles shall be compensated according to the applicable rules or liability provided by domestic law.

2. Information required to be recorded under these principles shall be available in accordance with procedures provided by domestic law for use in claiming compensation under the present principle.

### **Principle 36**

1. A detained person suspected of or charged with a criminal offence shall be presumed innocent and shall be treated as such until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. The arrest or detention of such a person pending investigation and trial shall be carried out only for the purposes of the administration of justice on grounds and under conditions and procedures specified by law. The imposition of restrictions upon such a person which are not strictly required for the purpose of the detention or to prevent hindrance to the process of investigation or the administration of justice, or for the maintenance of security and good order in the place of detention shall be forbidden.

### **Principle 37**

A person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his arrest. Such authority shall decide without delay upon the lawfulness and necessity of detention. No person may be kept under detention pending investigation or trial except upon the written order of such an authority. A detained person shall, when brought before such an authority, have the right to make a statement on the treatment received by him while in custody.

### **Principle 38**

A person detained on a criminal charge shall be entitled to trial within a reasonable time or to release pending trial.

### **Principle 39**

Except in special cases provided for by law, a person detained on a criminal charge shall be entitled, unless a judicial or other authority decides otherwise in the interest of the administration of justice, to release pending trial subject to the conditions that may be imposed in accordance with the law. Such authority shall keep the necessity of detention under review.

### **General clause**

Nothing in this Body of Principles shall be construed as restricting or derogating from any right defined in the International Covenant on Civil and Political Rights.

1 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 for the Treatment of Prisoners**

### **Adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990**

1. All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.
2. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. It is, however, desirable to respect the religious beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions so require.
4. The responsibility of prisons for the custody of prisoners and for the protection of society against crime shall be discharged in keeping with a State's other social objectives and its fundamental responsibilities for promoting the well-being and development of all members of society.
5. Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants.
6. All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.
7. Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.
8. Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labour market and permit them to contribute to their own financial support and to that of their families.
9. Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.
10. With the participation and help of the community and social institutions, and with due regard to the interests of victims, favourable conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions.
11. The above Principles shall be applied impartially.



# HUMAN RIGHTS AND PRISONS

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**A Pocketbook of  
International Human Rights  
Standards for Prison Officials**

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H u m a n R i g h t s



Professional  
Training  
Series No.

11 Add. 3

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UNITED NATIONS  
New York and Geneva, 2005

## NOTE

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HR/P/PT/11/Add.3

UNITED NATIONS PUBLICATION

Sales No. E.04.XIV.5

ISBN 92-1-154158-1

ISSN 1020-1688

## NOTE TO USERS OF THE POCKETBOOK

This Pocketbook is one component of the four-part publication ***Human Rights and Prisons*** – a human rights training package for prison officials. The four components are designed to complement each other and, taken together, provide all necessary elements for the conduct of human rights training programmes for prison officials, under the training approach developed by the Office of the United Nations High Commissioner for Human Rights.

The **Manual** (component one of the package) provides in-depth information on sources, systems and standards for human rights relating to the work of prison officials, practical recommendations, topics for discussion, case studies and checklists.

The **Compilation** (component two of the package) includes excerpts from and full texts of selected international human rights instruments concerning the administration of justice.

The **Trainer's Guide** (component three of the package) provides instructions and tips for trainers to be used together with the Manual in conducting training courses for prison officials.

This **Pocketbook** of international human rights standards (component four of the package) is designed to be a readily accessible and portable reference for prison officials, containing a comprehensive collection of point-form

standards organized according to prison officials' duties and functions, and topics, and referenced with detailed footnotes.

Copies of the Manual, the Compilation, the Trainer's Guide and this Pocketbook may be obtained from:

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**ABBREVIATIONS FOR INTERNATIONAL INSTRUMENTS  
CITED IN THE POCKETBOOK**

Beijing Rules	United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)
BPT	Basic Principles for the Treatment of Prisoners
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
Code of Conduct	Code of Conduct for Law Enforcement Officials
CRC	Convention on the Rights of the Child
Death Penalty Safeguards	Safeguards guaranteeing protection of the rights of those facing the death penalty
Declaration on Enforced Disappearance	Declaration on the Protection of All Persons from Enforced Disappearance
Declaration on Violence against Women	Declaration on the Elimination of Violence against Women
ICCPR	International Covenant on Civil and Political Rights

ICESCR	International Covenant on Economic, Social and Cultural Rights
Principles of Medical Ethics	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
Principles on Detention or Imprisonment	Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
Principles on Force and Firearms	Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
Principles on Summary Executions	Principles on the Effective Prevention and Investigations of Extra-legal, Arbitrary and Summary Executions
Robben Island Guidelines	Guidelines and Measures for Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines)
Rules for Juveniles	United Nations Rules for the Protection of Juveniles Deprived of their Liberty

SMR	Standard Minimum Rules for the Treatment of Prisoners
Tokyo Rules	United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)
UDHR	Universal Declaration of Human Rights

# **INTERNATIONAL HUMAN RIGHTS STANDARDS FOR PRISON OFFICIALS\***

## **I. General Principles**

International human rights law is binding on all States and their agents, including prison officials.<sup>1</sup>

Human rights are a legitimate subject for international law and international scrutiny.<sup>2</sup>

Law enforcement officials are obliged to know, and to apply, international standards for human rights.<sup>3</sup>

## **II. Right to Physical and Moral Integrity**

All human beings are born free and equal in dignity and rights.<sup>4</sup>

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\* For the precise language of the provisions as contained in the international instruments, those instruments should be consulted directly. Almost all the instruments cited are reproduced in component two of this training package, *Human Rights and Prisons: A Compilation of International Human Rights Instruments concerning the Administration of Justice* (Office of the United Nations High Commissioner for Human Rights (OHCHR), Professional Training Series No. 9/Add.1); and OHCHR, *Human Rights: A Compilation of International Instruments*, vol. 1 (2 parts), Universal Instruments (United Nations publication, Sales No. E.02.XIV.4).

Human rights derive from the inherent dignity of the human person.<sup>5</sup>

All persons deprived of their liberty shall be treated at all times with humanity and with respect for the inherent dignity of the human person.<sup>6</sup>

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. There are no exceptions.<sup>7</sup>

Torture is defined as any act by which severe physical or mental pain or suffering is intentionally inflicted on a person, other than that which is inherent in or incidental to lawful sanctions.<sup>8</sup>

Ill-treatment is defined as other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture.<sup>9</sup>

Any act of torture committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack, is a crime against humanity.<sup>10</sup>

No prisoner shall be subjected, even with his or her consent, to any medical or scientific experimentation which may be detrimental to health.<sup>11</sup>

Like torture and ill-treatment, enforced disappearances and summary executions are completely prohibited.<sup>12</sup>

All law enforcement officials shall be fully informed and educated about the prohibition of torture and ill-treatment.<sup>13</sup>

Any statement made as a result of torture shall not be invoked as evidence in any proceedings, except as evidence to bring the perpetrators to justice.<sup>14</sup>

Orders from a superior officer may not be invoked as a justification of torture.<sup>15</sup>

Law enforcement officials may use force only when it is strictly necessary.<sup>16</sup>

Any individual who alleges that he or she has been subjected to torture has the right to complain and to have the case promptly and impartially examined by competent authorities.<sup>17</sup>

All deaths in custody and disappearances of prisoners shall be properly investigated.<sup>18</sup>

All interrogation rules, instructions, methods and practices pertaining to detained and imprisoned persons shall be kept under systematic review with a view to preventing torture.<sup>19</sup>

Persons deprived of their liberty shall be held in places which are officially recognized as places of custody.<sup>20</sup>

A detailed register shall be kept of every person deprived of liberty.<sup>21</sup>

All prisoners shall be provided promptly with written information about the regulations which apply to them and on their rights and obligations.<sup>22</sup>

The families, legal representatives and, if appropriate, diplomatic missions of prisoners are to receive full information about the fact of their detention and where they are held.<sup>23</sup>

All prisoners shall be offered a proper medical examination and treatment as soon as possible after admission.<sup>24</sup>

### **III. Right to an Adequate Standard of Living**

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.<sup>25</sup>

All persons deprived of their liberty shall have the right to an adequate standard of living, including adequate food, drinking water, accommodation, clothing and bedding.<sup>26</sup>

Accommodation for prisoners shall provide adequate cubic content of air, floor space, lighting, heating and ventilation.<sup>27</sup>

Prisoners required to share sleeping accommodation shall be carefully selected and supervised at night.<sup>28</sup>

Adequate food and drinking water are human rights.<sup>29</sup>

All prisoners shall be provided with wholesome and adequate food at the usual hours and with drinking water available whenever needed.<sup>30</sup>

Clothing as a component of the right to an adequate standard of living is a human right.<sup>31</sup>

All prisoners not allowed to wear their own clothing shall be provided with suitable clothing.<sup>32</sup>

There shall be facilities for keeping clothing clean and in proper condition.<sup>33</sup>

All prisoners shall be provided with a separate bed and clean bedding, with facilities for keeping bedding clean.<sup>34</sup>

There must be facilities to wash and dry clothing and bedding regularly.<sup>35</sup>

#### **IV. Health Rights of Prisoners**

The enjoyment of the highest attainable standard of physical and mental health is a human right.<sup>36</sup>

It is a basic requirement that all prisoners should be given a medical examination as soon as they have been admitted to a prison or place of detention.<sup>37</sup>

Any necessary medical treatment should then be provided free of charge.<sup>38</sup>

Prisoners should generally have the right to request a second medical opinion.<sup>39</sup>

Prisoners and all detained persons have the right to the highest attainable standard of physical and mental health.<sup>40</sup>

Prisoners should have free access to the health services available in the country.<sup>41</sup>

Decisions about a prisoner's health should be taken only on medical grounds by medically qualified people.<sup>42</sup>

The medical officer has an important responsibility to ensure that proper health standards are met. He or she can do this by regularly inspecting and advising the director of the prison on the suitability of food, water, hygiene, cleanliness, sanitation, heating, lighting, ventilation, clothing, bedding and opportunities for exercise.<sup>43</sup>

Every prison should have proper health facilities and medical staff to provide for a range of health needs, including dental and psychiatric care. Sick prisoners who cannot be treated in the prison, such as prisoners with mental illness, should be transferred to a civilian hospital or to a specialized prison hospital.<sup>44</sup>

All prisoners shall have access to a qualified dental practitioner.<sup>45</sup>

Services for psychiatric diagnosis and, if appropriate, treatment shall be available at every prison.<sup>46</sup>

Prisoners who are insane shall not be detained in prisons, but transferred as soon as possible to mental institutions.<sup>47</sup>

Prisoners suffering from other mental diseases shall be treated in specialized institutions under medical management.<sup>48</sup>

During their stay in a prison, insane and mentally ill prisoners shall be supervised by a medical officer.<sup>49</sup>

It is important that health care for prisoners be provided by at least one qualified medical officer.<sup>50</sup>

Medical personnel have a duty to provide prisoners and detainees with health care equal to that which is afforded to those who are not imprisoned or detained.<sup>51</sup>

The primary responsibility of health-care personnel is to protect the health of all prisoners.<sup>52</sup>

Health-care personnel shall not commit or give their permission for any acts which may adversely affect the health of prisoners.<sup>53</sup>

All prisoners shall be provided with facilities to meet the needs of nature in a clean and decent manner and to maintain adequately their own cleanliness and good appearance.<sup>54</sup>

All prisoners shall have at least one hour's daily exercise in the open air if the weather permits.<sup>55</sup>

## **V. Making Prisons Safe Places**

Use of force, including use of firearms, to prevent escape should only be applied when less extreme means are insufficient to prevent the escape.<sup>56</sup>

Restraints may be used only as a precaution against escape during transfer, for no longer than strictly necessary, and provided that they are removed when the prisoner appears before a judicial or administrative authority; or on medical grounds.<sup>57</sup>

Prisons should be safe environments for all who live and work in them, in other words for prisoners and staff, and for visitors.<sup>58</sup>

No one in a prison should fear for his or her physical safety.<sup>59</sup>

Chains and irons shall not be used as restraints.<sup>60</sup>

Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.<sup>61</sup>

All disciplinary offences and punishments must be specified by law or published legal regulations.<sup>62</sup>

No prisoner shall be punished before being informed of the alleged offence and having the opportunity to present a proper defence.<sup>63</sup>

No prisoner shall be employed in any disciplinary capacity.<sup>64</sup>

All cruel, inhuman or degrading punishments are completely prohibited, including corporal punishment or placing in a dark cell.<sup>65</sup>

Punishment by close confinement or reduction of diet shall never be inflicted unless the prisoner is certified by the medical officer as medically fit to sustain it.<sup>66</sup>

Instruments of restraint shall never be applied as a punishment.<sup>67</sup>

Prisoners who are subject to disciplinary action should have the right of appeal to a higher authority.<sup>68</sup>

## **VI. Making the Best Use of Prisons**

The main aim of the prison authorities in their treatment of prisoners should be to encourage personal reformation and social rehabilitation.<sup>69</sup>

The purpose of the prison regime should be to help prisoners to lead law-abiding and self-supporting lives after their release.<sup>70</sup>

All sentenced prisoners who are medically fit shall be required to work. As far as possible, this work should give them skills that will enable them to earn an honest living after their release.<sup>71</sup>

National legislation regarding health and safety at work shall apply in prison in the same way as it does in the community.<sup>72</sup>

Vocational training shall be provided, especially for young prisoners.<sup>73</sup>

Prisoners should be remunerated for the work they do.<sup>74</sup>

Prisoners should be allowed to spend at least a part of their earnings, to send a part to their families and to save a part.<sup>75</sup>

Education and cultural activities shall be provided and encouraged, including access to an adequate library.<sup>76</sup>

Education in prisons should be aimed at developing the whole person, taking account of prisoners' social, economic and cultural background.<sup>77</sup>

Education shall be compulsory for young prisoners and illiterate prisoners. The prison authorities should give this high priority.<sup>78</sup>

The outside community should be involved as much as possible in educational and cultural activities in prisons.<sup>79</sup>

All prisoners have the right to observe the tenets of their religion and to have access to a minister of that religion.<sup>80</sup>

Prisoners shall be allowed access to qualified representatives of any religion.<sup>81</sup>

From the beginning of a prisoner's sentence consideration shall be given to his or her future after release and prisoners shall be assisted in ensuring their future reintegration into society.<sup>82</sup>

All agencies and services responsible for the reintegration of prisoners into society shall ensure that all prisoners have means and available resources to maintain themselves in the period immediately following their release.<sup>83</sup>

## **VII. Prisoners' Contact with the Outside World**

No one shall be subjected to arbitrary interference with his or her privacy, family, home or correspondence.<sup>84</sup>

All prisoners shall have the right to communicate with the outside world, especially with their families.<sup>85</sup>

Foreign prisoners shall be allowed to communicate with their diplomatic representatives.<sup>86</sup>

A prisoner's request to be held in a prison near his or her home shall be granted as far as possible.<sup>87</sup>

Prisoners shall be kept informed of important items of news.<sup>88</sup>

### **VIII. Complaints and Inspection Procedures**

Anyone whose rights and freedoms have been violated has the right to an effective remedy, determined by a competent court.<sup>89</sup>

Every prisoner shall have the right to make a complaint regarding his or her treatment and, unless the complaint is evidently frivolous, to have it dealt with promptly and, if requested, confidentially. If necessary, the complaint may be lodged on behalf of the prisoner by his or her legal representative or family.<sup>90</sup>

Every prisoner on admission shall be provided with written information on regulations and on complaints and disciplinary procedures in a language which he or she understands. If necessary, these rules should be explained orally.<sup>91</sup>

If a complaint is rejected or not responded to in a timely manner, the complainant shall be entitled to bring it before a judicial or other authority.<sup>92</sup>

States shall ensure a prompt and impartial investigation whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed.<sup>93</sup>

There shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary execution, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances.<sup>94</sup>

Prisons shall be inspected regularly by qualified and experienced inspectors from a competent authority separate from the prison administration.<sup>95</sup>

Every prisoner shall have the right to communicate freely and confidentially with inspectors, subject only to the demands of good order and discipline in the institution.<sup>96</sup>

## **IX. Special Categories of Prisoners**

### **A. Non-discrimination**

All persons are equal before the law and are entitled, without discrimination, to equal protection of the law.<sup>97</sup>

Everyone has the right to freedom of thought, conscience and religion and persons belonging to ethnic, religious or linguistic minorities have the right to their own culture, religion and language.<sup>98</sup>

A prisoner who does not adequately understand or speak the language used by the authorities is entitled to receive

relevant information promptly in a language which he understands.<sup>99</sup>

Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with diplomatic representatives of their State.<sup>100</sup>

Prisoners who are nationals of States without diplomatic representation in the country or refugees or stateless persons shall be allowed reasonable facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.<sup>101</sup>

## **B. Women in prison**

Women are entitled to the equal enjoyment and protection of all human rights in the political, economic, social, cultural, civil and all other fields.<sup>102</sup>

Women prisoners shall not suffer discrimination and shall be protected from all forms of violence or exploitation.<sup>103</sup>

Women prisoners shall be detained separately from male prisoners.<sup>104</sup>

Women prisoners shall be supervised and searched only by female officers and staff.<sup>105</sup>

Pregnant women and nursing mothers who are in prison shall be provided with the special facilities which they need for their condition.<sup>106</sup>

Whenever practicable, women prisoners should be taken to outside hospitals to give birth.<sup>107</sup>

### **C. Juveniles in detention**

Children are to benefit from all the human rights guarantees available to adults.<sup>108</sup>

In addition, the following rules shall be applied to children:

Children who are detained shall be treated in a manner which promotes their sense of dignity and worth, facilitates their reintegration into society, reflects their best interests and takes their needs into account.<sup>109</sup>

Children shall not be subjected to corporal punishment, capital punishment or life imprisonment without possibility of release.<sup>110</sup>

Children who are detained shall be separated from adult prisoners. Accused juveniles shall be separated from adults and brought for trial as speedily as possible.<sup>111</sup>

Special efforts shall be made to allow detained children to receive visits from and correspond with family members.<sup>112</sup>

The privacy of a detained child shall be respected, and complete and secure records are to be maintained and kept confidential.<sup>113</sup>

Juveniles of compulsory school age have the right to education and to vocational training.<sup>114</sup>

Weapons shall not be carried in institutions which hold juveniles.<sup>115</sup>

Disciplinary procedures shall respect the child's dignity and be designed to instil in the child a sense of justice, self-respect and respect for human rights.<sup>116</sup>

Parents are to be notified of the admission, transfer, release, sickness, injury or death of a juvenile.<sup>117</sup>

#### **D. Prisoners under sentence of death**

Every human being has the inherent right to life, which shall be protected by law.<sup>118</sup>

In countries which have not abolished the death penalty, it shall be imposed only for the most serious crimes and after a final judgement rendered by a competent court.<sup>119</sup>

The death penalty shall not be imposed for crimes committed by persons below the age of eighteen and shall not be carried out on pregnant women, new mothers or persons who have become insane.<sup>120</sup>

Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering.<sup>121</sup>

Abolition of the death penalty is encouraged.<sup>122</sup>

### **E. Life and long-term prisoners**

The essential aim of the treatment of prisoners shall be their reformation and social rehabilitation.<sup>123</sup>

Life imprisonment without possibility of release shall not be imposed for offences committed by persons below eighteen years of age.<sup>124</sup>

The regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.<sup>125</sup>

Treatment shall be such as to encourage long-term prisoners' self-respect and to develop their sense of responsibility.<sup>126</sup>

Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.<sup>127</sup>

Life-sentence prisoners should be eligible for release into society once they have served a sufficient period of time in custody to mark the seriousness of their offences.<sup>128</sup>

## **X. Persons under Detention without Sentence**

Everyone charged with a penal offence has the right to be presumed innocent until proved guilty.<sup>129</sup>

Everyone has the right to liberty and security. No one shall be deprived of liberty except on such grounds and in accordance with such procedures as are established by law.<sup>130</sup>

Anyone who is arrested shall be informed, at the time of arrest, of the reasons for the arrest and of his or her rights. Anyone who is arrested shall be promptly informed of any charges.<sup>131</sup>

Anyone who is arrested shall be brought promptly before a judicial authority for the purpose of having the legality of his or her arrest or detention reviewed and shall be released if the detention is found to be unlawful.<sup>132</sup>

Anyone who is arrested has the right to trial within a reasonable time or to release.<sup>133</sup>

Comprehensive written records of all interrogations must be kept, including the identity of all persons present during the interrogation.<sup>134</sup>

All arrested or detained persons shall have access to a lawyer or other legal representative and adequate opportunity to communicate with that representative.<sup>135</sup>

Untried prisoners shall be allowed immediately to inform their families of their detention and shall be given all reasonable facilities for communicating with their families and friends.<sup>136</sup>

Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment.<sup>137</sup>

Untried prisoners shall sleep singly in separate rooms, with the reservation of different local custom in respect of the climate.<sup>138</sup>

Untried prisoners may, if they so desire, have their food procured at their own expense from the outside.<sup>139</sup>

Untried prisoners shall be allowed to wear their own clothing if it is clean and suitable.<sup>140</sup>

If an untried prisoner wears prison clothing, it shall be different from that supplied to convicted prisoners.<sup>141</sup>

Untried prisoners shall always be offered the opportunity to work, but shall not be required to work.<sup>142</sup>

Untried prisoners shall generally be allowed to procure at their own expense books, newspapers and writing materials.<sup>143</sup>

Untried prisoners shall generally be allowed visits from their own doctor or dentist.<sup>144</sup>

Persons awaiting trial shall not be detained in custody as a general rule.<sup>145</sup>

Release pending trial shall be envisaged as early as possible.<sup>146</sup>

A pre-trial prisoner shall have the right to appeal to a judicial or other independent authority against his or her detention.<sup>147</sup>

Persons arrested or imprisoned without charge shall be accorded the same protection and facilities as pre-trial prisoners and those awaiting trial.<sup>148</sup>

## **XI. Non-custodial Measures**

The use of non-custodial measures should be recommended and encouraged.<sup>149</sup>

Non-custodial measures should be applied without discrimination on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status.<sup>150</sup>

Consideration should be given where possible to dealing with offenders in the community, without resort to the courts.<sup>151</sup>

Non-custodial measures should be used in accordance with the principle of minimum intervention.<sup>152</sup>

Any form of release from an institution to a non-custodial programme shall be considered at the earliest possible stage.<sup>153</sup>

There should be suitable mechanisms to facilitate linkages between services responsible for non-custodial measures and other relevant agencies in the criminal justice system, social development and welfare agencies, both governmental and non-governmental, in such fields as health, housing, education and labour, and the mass media.<sup>154</sup>

The criminal justice system should provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions, in order to avoid the unnecessary use of imprisonment.<sup>155</sup>

Pre-trial detention shall be used as a means of last resort in criminal proceedings, and alternatives to pre-trial detention should be employed as early as possible.<sup>156</sup>

The number and types of non-custodial measures available should be determined in such a way that consistent sentencing remains possible.<sup>157</sup>

Sentencing authorities, when considering non-custodial measures, should take into consideration the rehabilitative needs of the offender, the protection of society and the interests of the victim, who should be consulted whenever appropriate.<sup>158</sup>

The development of new non-custodial measures should be encouraged and closely monitored and their use systematically evaluated.<sup>159</sup>

## **XII. The Administration of Prisons and Prison Staff**

All law enforcement officials, including prison staff, shall respect and protect human dignity and maintain and uphold the human rights of all persons.<sup>160</sup>

The administration of the prison staff should be in civilian hands. It should not be part of a military structure.<sup>161</sup>

Personnel shall be carefully selected for their integrity, humanity, professional capacity and personal suitability.<sup>162</sup>

The prison administration should be diligent in informing the personnel and the public that prison work is a social service of great importance.<sup>163</sup>

Personnel shall be appointed as full-time prison officers, with civilian status, salaries adequate to attract and retain

suitable men and women, and favourable employment benefits and conditions of service.<sup>164</sup>

Both law enforcement agencies and prison authorities shall not discriminate against women in recruitment, hiring, training, assignment, promotion, salary or other career and administrative matters.<sup>165</sup>

Both law enforcement agencies and prison authorities shall recruit sufficient numbers of women to ensure fair community representation and the protection of the rights of women prisoners.<sup>166</sup>

Personnel shall have an adequate standard of intelligence and education and shall be trained before entering on duty and while they are in service.<sup>167</sup>

Personnel shall conduct themselves in a manner which commands the respect of prisoners.<sup>168</sup>

Personnel shall include, so far as possible, sufficient numbers of specialists such as psychiatrists and psychologists, and also social workers, teachers and trade instructors.<sup>169</sup>

The director of an institution should be adequately qualified for his or her task, appointed on a full-time basis and resident on the premises or in the immediate vicinity.<sup>170</sup>

The director, his or her deputy and the majority of the other personnel shall be able to speak the language of the majority of the prisoners.<sup>171</sup>

There shall be adequate medical personnel resident close to the institution.<sup>172</sup>

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 and women prisoners shall be attended and supervised only by women officers.<sup>173</sup>

Prison officers shall not use force, except in self-defence or in cases of attempted escape or active or passive resistance to an order based on law or regulations.<sup>174</sup>

Officers who have recourse to force must use only the minimum force and must report the incident immediately to the prison director.<sup>175</sup>

Staff in direct contact with prisoners should not usually be armed.<sup>176</sup>

Law enforcement officials shall respect the confidentiality of information in their possession unless the performance of duty or the needs of justice strictly require otherwise.<sup>177</sup>

Law enforcement officials shall ensure the full protection of the health of persons in their custody.<sup>178</sup>

Firearms shall not be used against persons in custody or detention except in the following circumstances:

- In self-defence or defence of others against imminent threat of death or serious injury;
- When strictly necessary to prevent the escape of a person presenting a grave threat to life.<sup>179</sup>

Intentional lethal use of force or firearms shall be permitted only when strictly unavoidable in order to protect human life.<sup>180</sup>



## ENDNOTES

- <sup>1</sup> International Covenant on Civil and Political Rights [hereinafter "ICCPR"], article 2, para. 3.
- <sup>2</sup> Charter of the United Nations, Preamble, Article 1 and Article 55 (c).
- <sup>3</sup> ICCPR, article 2, para. 3; Code of Conduct for Law Enforcement Officials [hereinafter "Code of Conduct"], article 2.
- <sup>4</sup> Universal Declaration of Human Rights [hereinafter "UDHR"], preamble and article 1; ICCPR, preamble.
- <sup>5</sup> UDHR, preamble and article 1; ICCPR, preamble.
- <sup>6</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment [hereinafter "Principles on Detention or Imprisonment"], principle 1; Basic Principles for the Treatment of Prisoners [hereinafter "BPT"], principle 1.
- <sup>7</sup> UDHR, article 5; ICCPR, article 7; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [hereinafter "CAT"], preamble and article 2; Code of Conduct, article 5.
- <sup>8</sup> CAT, article 1.
- <sup>9</sup> CAT, article 16.
- <sup>10</sup> Rome Statute of the International Criminal Court, article 7.
- <sup>11</sup> Principles on Detention or Imprisonment, principle 22.
- <sup>12</sup> Declaration on the Protection of All Persons from Enforced Disappearance [hereinafter "Declaration on Enforced Disappearance"], article 1; Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions [hereinafter "Principles on Summary Executions"], principle 1.
- <sup>13</sup> CAT, article 10.
- <sup>14</sup> CAT, article 15.
- <sup>15</sup> CAT, article 2.
- <sup>16</sup> Code of Conduct, article 3.
- <sup>17</sup> CAT, article 13.
- <sup>18</sup> Principles on Detention or Imprisonment, principle 34.
- <sup>19</sup> CAT, article 11.

- <sup>20</sup> Principles on Summary Executions, principle 6.
- <sup>21</sup> Standard Minimum Rules for the Treatment of Prisoners [hereinafter "SMR"], rule 7; Declaration on Enforced Disappearance, article 10; Principles on Summary Executions, principle 6.
- <sup>22</sup> Principles on Detention or Imprisonment, principle 13; SMR, rule 35.
- <sup>23</sup> Principles on Detention or Imprisonment, principle 12; Principles on Summary Executions, principle 6.
- <sup>24</sup> Principles on Detention or Imprisonment, principle 24; SMR, rule 24.
- <sup>25</sup> ICCPR, article 10, para. 1.
- <sup>26</sup> UDHR, article 25; International Covenant on Economic, Social and Cultural Rights [hereinafter "ICESCR"], article 11; Convention on the Rights of the Child [hereinafter "CRC"], article 27; Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa [hereinafter "Robben Island Guidelines"], paragraph 34.
- <sup>27</sup> SMR, rule 10.
- <sup>28</sup> SMR, rule 9 (2).
- <sup>29</sup> ICESCR, article 11.
- <sup>30</sup> SMR, rule 20.
- <sup>31</sup> ICESCR, article 11.
- <sup>32</sup> SMR, rule 17 (1).
- <sup>33</sup> SMR, rules 17 (2) and 18.
- <sup>34</sup> SMR, rule 19.
- <sup>35</sup> SMR, rule 19.
- <sup>36</sup> ICESCR, article 12.
- <sup>37</sup> Principles on Detention or Imprisonment, principle 24; SMR, rule 24.
- <sup>38</sup> Principles on Detention or Imprisonment, principle 24.
- <sup>39</sup> Principles on Detention or Imprisonment, principle 25.
- <sup>40</sup> UDHR, article 25; ICESCR, article 12.
- <sup>41</sup> BPT, principle 9.
- <sup>42</sup> SMR, rule 25.
- <sup>43</sup> SMR, rule 26.
- <sup>44</sup> SMR, rule 22 (1) and (2).

- <sup>45</sup> SMR, rule 22 (3).
- <sup>46</sup> SMR, rule 22 (1).
- <sup>47</sup> SMR, rule 82 (1).
- <sup>48</sup> SMR, rule 82 (2).
- <sup>49</sup> SMR, rule 82 (3).
- <sup>50</sup> SMR, rule 22 (1).
- <sup>51</sup> 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 [hereinafter "Principles of Medical Ethics"], principle 1.
- <sup>52</sup> Principles of Medical Ethics, principles 1 to 6.
- <sup>53</sup> Principles of Medical Ethics, principles 1 to 6.
- <sup>54</sup> SMR, rules 12 to 16.
- <sup>55</sup> SMR, rule 21.
- <sup>56</sup> Basic Principles on the Use of Force and Firearms by Law Enforcement Officials [hereinafter "Principles on Force and Firearms"], principle 9.
- <sup>57</sup> SMR, rule 33.
- <sup>58</sup> SMR, rule 27.
- <sup>59</sup> SMR, rule 27.
- <sup>60</sup> SMR, rule 33.
- <sup>61</sup> SMR, rule 27.
- <sup>62</sup> Principles on Detention or Imprisonment, principle 30; SMR, rules 29 and 30.
- <sup>63</sup> SMR, rule 30 (2).
- <sup>64</sup> SMR, rule 28 (1).
- <sup>65</sup> SMR, rule 31.
- <sup>66</sup> SMR, rule 32.
- <sup>67</sup> SMR, rule 33.
- <sup>68</sup> ICCPR, article 2; Principles on Detention or Imprisonment, principle 30, para. 2.
- <sup>69</sup> ICCPR, article 10, para. 3.
- <sup>70</sup> SMR, rules 65 and 66 (1).
- <sup>71</sup> SMR, rules 66 (1) and 71; BPT, principle 8.

- <sup>72</sup> SMR, rules 72 (1) and 74.
- <sup>73</sup> SMR, rule 71 (5).
- <sup>74</sup> UDHR, article 23; SMR, rule 76 (1).
- <sup>75</sup> SMR, rule 76 (2) and (3).
- <sup>76</sup> UDHR, articles 26 and 27; ICESCR, article 13; SMR, rules 40, 77 and 78.
- <sup>77</sup> BPT, principle 6; Economic and Social Council resolution 1990/20 of 24 May 1990, paragraph 3 (a).
- <sup>78</sup> SMR, rule 77.
- <sup>79</sup> Economic and Social Council resolution 1990/20 of 24 May 1990, paragraph 3 (i).
- <sup>80</sup> UDHR, article 18; ICCPR, article 18.
- <sup>81</sup> SMR, rule 41.
- <sup>82</sup> SMR, rule 80.
- <sup>83</sup> SMR, rule 81; BPT, principle 10.
- <sup>84</sup> UDHR, article 12; ICCPR, article 17.
- <sup>85</sup> Principles on Detention or Imprisonment, principle 19; SMR, rules 37 and 79.
- <sup>86</sup> SMR, rule 38.
- <sup>87</sup> Principles on Detention or Imprisonment, principle 20.
- <sup>88</sup> SMR, rule 39.
- <sup>89</sup> ICCPR, article 2; CAT, article 13; Principles on Detention or Imprisonment, principle 33.
- <sup>90</sup> Principles on Detention or Imprisonment, principle 33; SMR, rule 36.
- <sup>91</sup> SMR, rule 35.
- <sup>92</sup> Principles on Detention or Imprisonment, principle 33, para. 4.
- <sup>93</sup> CAT, article 12; Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, principle 2.
- <sup>94</sup> Principles on Summary Executions, principle 9.
- <sup>95</sup> Principles on Detention or Imprisonment, principle 29, para. 1; SMR, rule 55.
- <sup>96</sup> SMR, rules 36 (2) and 55; Principles on Detention or Imprisonment, principle 29, para. 2.

- <sup>97</sup> UDHR, article 7; ICCPR, articles 2 and 26; International Convention on the Elimination of All Forms of Racial Discrimination, articles 2 and 5.
- <sup>98</sup> UDHR, article 18; ICCPR, articles 18 and 27.
- <sup>99</sup> Principles on Detention or Imprisonment, principle 14.
- <sup>100</sup> SMR, rule 38 (1).
- <sup>101</sup> SMR, rule 38 (2).
- <sup>102</sup> UDHR, article 2; ICCPR, article 3; Convention on the Elimination of All Forms of Discrimination against Women [hereinafter "CEDAW"], articles 1, 2 and 3; Declaration on the Elimination of Violence against Women [hereinafter "Declaration on Violence against Women"], article 3.
- <sup>103</sup> CEDAW, articles 1, 6 and 7; Declaration on Violence against Women, articles 2 and 4.
- <sup>104</sup> Principles on Detention or Imprisonment, principle 5; SMR, rule 8 (a).
- <sup>105</sup> SMR, rule 53.
- <sup>106</sup> SMR, rule 23 (1).
- <sup>107</sup> SMR, rule 23 (1).
- <sup>108</sup> UDHR, article 1 and article 25, para. 2; CRC, preamble; ICCPR, preamble.
- <sup>109</sup> CRC, articles 3 and 37; United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) [hereinafter "Beijing Rules"], rules 1, 5 and 6; United Nations Rules for the Protection of Juveniles Deprived of their Liberty [hereinafter "Rules for Juveniles"], rules 1, 4, 14, 31, 79 and 80.
- <sup>110</sup> CRC, article 37 (a); Beijing Rules, rule 27; Rules for Juveniles, rules 64, 66 and 67.
- <sup>111</sup> ICCPR, article 10, para. 2 (b); CRC, article 37 (c); Beijing Rules, rules 13.4 and 26.3; Rules for Juveniles, rule 29.
- <sup>112</sup> CRC, articles 9, 10 and 37 (c); Beijing Rules, rules 13.3, 26.5 and 27.2; SMR, rule 37; Rules for Juveniles, rule 59.
- <sup>113</sup> CRC, article 40, para. 2 (b) (vii); Beijing Rules, rule 21.1.
- <sup>114</sup> ICESCR, article 13; CRC, article 28; Rules for Juveniles, rules 38 and 42.
- <sup>115</sup> Rules for Juveniles, rule 65.
- <sup>116</sup> Rules for Juveniles, rule 66.

- <sup>117</sup> CRC, article 37 (c) and article 40, para. 2 (b) (ii); Beijing Rules, rules 10.1 and 26.5; SMR, rules 37 and 44; Rules for Juveniles, rules 56 and 57.
- <sup>118</sup> UDHR, article 3; ICCPR, article 6, para. 1.
- <sup>119</sup> ICCPR, article 6, para. 2; Safeguards guaranteeing protection of the rights of those facing the death penalty [hereinafter “Death Penalty Safeguards”], para. 1.
- <sup>120</sup> ICCPR, article 6, para. 5; Death Penalty Safeguards, para. 3.
- <sup>121</sup> Death Penalty Safeguards, para. 9.
- <sup>122</sup> ICCPR, article 6, para. 6.
- <sup>123</sup> ICCPR, article 10, para. 3.
- <sup>124</sup> CRC, article 37 (a).
- <sup>125</sup> SMR, rule 60 (1).
- <sup>126</sup> SMR, rules 65 and 66.
- <sup>127</sup> SMR, rule 37.
- <sup>128</sup> Resolution (76) 2 of 17 February 1976 of the Committee of Ministers of the Council of Europe on the treatment of long-term prisoners.
- <sup>129</sup> UDHR, article 11; ICCPR, article 14, para. 2; Principles on Detention or Imprisonment, principle 36; SMR, rule 84 (2).
- <sup>130</sup> UDHR, article 3; ICCPR, article 9, para. 1.
- <sup>131</sup> ICCPR, article 9, para. 2, and article 14, para. 3 (a); Principles on Detention or Imprisonment, principle 10.
- <sup>132</sup> ICCPR, article 9, para. 4; Principles on Detention or Imprisonment, principle 37.
- <sup>133</sup> ICCPR, article 9, para. 3; Principles on Detention or Imprisonment, principle 38.
- <sup>134</sup> Robben Island Guidelines, para. 28.
- <sup>135</sup> UDHR, article 11; ICCPR, article 14, para. 3 (b) and (d); Principles on Detention or Imprisonment, principles 17 and 18; SMR, rule 93.
- <sup>136</sup> Principles on Detention or Imprisonment, principle 16, para. 1; SMR, rules 44 (3) and 92; Declaration on Enforced Disappearance, article 10, para. 2; Principles on Summary Executions, principle 6.
- <sup>137</sup> ICCPR, article 10, para. 2 (a); Principles on Detention or Imprisonment, principle 8; SMR, rules 8 (b) and 85 (1).

- <sup>138</sup> SMR, rule 86.
- <sup>139</sup> SMR, rule 87.
- <sup>140</sup> SMR, rule 88 (1).
- <sup>141</sup> SMR, rule 88 (2).
- <sup>142</sup> SMR, rule 89.
- <sup>143</sup> SMR, rule 90; Principles on Detention or Imprisonment, principle 28.
- <sup>144</sup> SMR, rule 91.
- <sup>145</sup> ICCPR, article 9, para. 3.
- <sup>146</sup> Principles on Detention or Imprisonment, principle 39; United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) [hereinafter "Tokyo Rules"], rule 6.2.
- <sup>147</sup> Tokyo Rules, rule 6.3.
- <sup>148</sup> SMR, rule 95.
- <sup>149</sup> Tokyo Rules, rule 1.
- <sup>150</sup> Tokyo Rules, rule 2.2.
- <sup>151</sup> Tokyo Rules, rule 2.5.
- <sup>152</sup> Tokyo Rules, rule 2.6.
- <sup>153</sup> Tokyo Rules, rule 9.4.
- <sup>154</sup> Tokyo Rules, rule 22.
- <sup>155</sup> Tokyo Rules, rule 2.3.
- <sup>156</sup> ICCPR, article 9, para. 3; Tokyo Rules, rules 5 and 6.
- <sup>157</sup> Tokyo Rules, rules 2.3 and 8.1.
- <sup>158</sup> Tokyo Rules, rule 8.1.
- <sup>159</sup> Tokyo Rules, rule 2.4.
- <sup>160</sup> ICCPR, preamble; Code of Conduct, article 2.
- <sup>161</sup> SMR, rule 46 (3).
- <sup>162</sup> SMR, rule 46 (1).
- <sup>163</sup> SMR, rule 46 (2).
- <sup>164</sup> SMR, rule 46 (3).
- <sup>165</sup> UDHR, article 2; ICCPR, articles 2, 3 and 26; CEDAW, preamble and articles 2, 3 and 7 (b); General Assembly resolution 34/169 of 17 December 1979 (resolution adopting the Code of Conduct for Law Enforcement Officials), eighth preambular paragraph, subpara. (a).

- <sup>166</sup> General Assembly resolution 34/169 of 17 December 1979, eighth preambular paragraph, subpara. (a); SMR, rule 53.
- <sup>167</sup> SMR, rule 47.
- <sup>168</sup> SMR, rule 48; Code of Conduct, article 8.
- <sup>169</sup> SMR, rule 49.
- <sup>170</sup> SMR, rule 50.
- <sup>171</sup> SMR, rule 51 (1).
- <sup>172</sup> SMR, rule 52.
- <sup>173</sup> SMR, rule 53.
- <sup>174</sup> SMR, rule 54 (1); Code of Conduct, article 3; Principles on Force and Firearms, principles 4 and 15.
- <sup>175</sup> Principles on Force and Firearms, principle 5.
- <sup>176</sup> SMR, rule 54 (3).
- <sup>177</sup> Code of Conduct, article 4.
- <sup>178</sup> Code of Conduct, article 6.
- <sup>179</sup> Principles on Force and Firearms, principle 9.
- <sup>180</sup> Principles on Force and Firearms, principle 9.

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Palestine Liberation Organization  
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## تقييم البرنامج التدريبي للصحة داخل السجون

٢٧-٢٩ نيسان ٢٠٠٩

### مقدمة:

بداية نشكر لكم مشاركتكم في هذه الدورة التدريبية. و رغبة منا في تطوير الدورات التدريبية المستقبلية ولتقييم مدى تحقيق الاهداف المرجوة من التدريب ، نود إستطلاع رأيكم بخصوص هذه الدورة. الرجاء تعبئة هذا النموذج باختيار الإجابة الأقرب إلى رأيكم.

ممتاز	جيد جداً	جيد	مقبول	ضعيف	تحضيرات الدورة
<input type="checkbox"/>	الأهداف التدريبية لهذه الدورة كانت واضحة بالنسبة لي				
<input type="checkbox"/>	موضوع التدريب ذو أهمية وصله عملي				
<input type="checkbox"/>	تقييمك لكيفية التواصل للتعريف والمشاركة بالدورة				
<input type="checkbox"/>	تقييمك للتنظيم اللوجستي للدورة				
<input type="checkbox"/>	تقييمك لاهمية التنظيم لهذه الدورة و دورات اخرى مثلها في المستقبل				

ممتاز	جيد جداً	جيد	مقبول	ضعيف	المدرسين:
<input type="checkbox"/>	مدى تعريف المدرسين لاهداف الدورة				
<input type="checkbox"/>	تعريف المدرسين عن ذاتهم واعطاء المتدربين فرصة التعرف على بعضهم				
<input type="checkbox"/>	إستعداد المدرسين وتمكنهم من اعطاء امثلة لها علاقة بالمواد المطروحة				
<input type="checkbox"/>	قدرة المدرسين على مشاركتكم في النقاش و الاسئلة				
<input type="checkbox"/>	قدرة المدرسين على استخدام اساليب وفعاليات مختلفة لايقصال المعلومات				
<input type="checkbox"/>	إدارة المحاضرين للدورة بشكل عام				

ممتاز	جيد جداً	جيد	مقبول	ضعيف	التدريب والمادة التدريبية:
<input type="checkbox"/>	تقديم واضح لهيكلية التدريب المتوقع				
<input type="checkbox"/>	اسلوب الشرح سهل و بسيط				
<input type="checkbox"/>	تلخيص المواد وتتابع المواضيع بشكل متكامل				
<input type="checkbox"/>	تقييمك للحالات العملية والأمثلة التي تم استخدامها خلال التدريب				
<input type="checkbox"/>	تقييمك للمادة التدريبية وأهميتها				
<input type="checkbox"/>	تقييمك للدورة التدريبية بشكل عام				
<input type="checkbox"/>	تقييمك لمدى الاستفادة من الدورة التدريبية بشكل عام				

نعم	نوعاً ما	لا	نتائج الدورة:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	هل حققت الدورة الأهداف الموضحة
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	هل ستتمكن من تطبيق ما تعلمته
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	وصلت الدورة لمستوى توقعاتي

### ملاحظات إضافية:

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United Nations Office on Drugs and Crime



منظمة التحرير الفلسطينية  
السلطة الوطنية الفلسطينية  
وزارة الداخلية

# CERTIFICATE OF PARTICIPATION

PRESENTED TO

*[ Name ]*

IN RECOGNITION OF YOUR PARTICIPATION IN

THE “ [ title ] ”  
TRAINING WORKSHOP

[ date ]

*Ramallah, Palestine*

---

**Mr Mohammed Abdul-Aziz**  
Regional Representative,  
United Nations Office on Drugs and Crime

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**Col. Mahmoud Rahhal**  
Director-General of General Administration,  
Reform and Rehabilitation Centres



## Chapter 9

### **SOURCE AND REFERENCE DOCUMENTS**

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Handbook of basic principles and promising practices on Alternatives to Imprisonment. Criminal Justice Handbook Series - United Nations Office on Drugs and Crime (2007).

Handbook on Women in Prisons - United Nations Office on Drugs and Crime (2008).

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

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

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

### **Specialised Tools**

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

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