



UNITED NATIONS
Office on Drugs and Crime



CUSTODIAL AND NON-CUSTODIAL MEASURES
The Prison System

Criminal justice
assessment
toolkit

UNITED NATIONS OFFICE ON DRUGS AND CRIME
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TABLE OF CONTENTS

| | |
|---|----|
| 1. INTRODUCTION TO THE ISSUE | 1 |
| 2. OVERVIEW: GENERAL AND STATISTICAL DATA | 5 |
| 2.1 OVERVIEW OF COUNTRY AND PRISON SYSTEM..... | 5 |
| 2.2 PRISON POPULATION | 6 |
| 2.3 PROFILE OF PRISON POPULATION..... | 6 |
| 2.4 QUALITY OF DATA | 6 |
| 3. LEGAL AND REGULATORY FRAMEWORK: LAW AND PRACTICE | 7 |
| 3.1 LEGISLATION: OVERVIEW | 7 |
| 3.2 LAW REFORM | 8 |
| 4. PRISON MANAGEMENT | 9 |
| 4.1 ADMISSION AND ASSESSMENT | 9 |
| 4.2 LIVING CONDITIONS | 10 |
| 4.3 HEALTHCARE | 13 |
| 4.4 CONTACT WITH THE OUTSIDE WORLD | 17 |
| 4.5 PRISON REGIME | 18 |
| 4.6 SAFETY AND SECURITY | 22 |
| 4.7 COMPLAINTS PROCEDURES | 25 |
| 5. SPECIAL CATEGORIES | 26 |
| 5.1 JUVENILES..... | 26 |
| 5.2 WOMEN | 27 |
| 5.3 THE MENTALLY ILL | 28 |
| 5.4 OVERREPRESENTED GROUPS | 29 |
| 5.5 LIFE-SENTENCED AND LONG-TERM PRISONERS..... | 31 |
| 5.6 PRISONERS UNDER SENTENCE OF DEATH | 32 |
| 6. MANAGEMENT SYSTEM | 33 |
| 6.1 MANAGEMENT AUTHORITY AND STRUCTURE..... | 33 |
| 6.2 BUDGET | 34 |
| 6.3 PROCUREMENT | 35 |
| 6.4 PERSONNEL | 35 |
| 6.5 RESEARCH, PLANNING, AND POLICY FORMULATION..... | 37 |
| 6.6 CORRUPTION | 38 |
| 6.7 OVERSIGHT: INSPECTIONS..... | 39 |
| 6.8 PUBLIC OPINION AND ACCOUNTABILITY | 40 |
| 7. PARTNERSHIPS AND COORDINATION | 41 |
| 7.1 SYSTEM COORDINATION | 41 |
| 7.2 DONOR COORDINATION..... | 42 |
| ANNEX A. KEY DOCUMENTS | 44 |
| ANNEX B. ASSESSOR'S GUIDE / CHECKLIST..... | 46 |

1. INTRODUCTION TO THE ISSUE

Imprisonment can be regarded as the final stage of the criminal justice process, which starts with the commission of offences, their investigation, the arrest of suspects, their detention, trial and sentence. How the criminal justice system deals with offenders determines the size of the prison population, which in turn has a significant impact on the way in which prisons are managed. The criminal justice system itself is on the other hand influenced by the government policies and political climate of the time - determined to a large extent by the public, which, in democratic countries, elect their governments. Thus, in assessing the prison system there needs to be awareness that efficient management and humane prison conditions are not dependent on the prison authorities alone. What happens in prisons is intrinsically linked to how the criminal justice system as a whole is managed, and what pressures that system is under from politicians and the public. Thus, attempts to reform the prison system need to be undertaken as part of a comprehensive programme that addresses challenges in the entire criminal justice system.

The extent to which the criminal justice system in general, and imprisonment in particular, is seen as the answer to resolving some of the most fundamental problems of society demonstrates the attitude of the public and politicians elected by them towards crime and its root causes. Where governments adopt a punitive approach to crime, failing to address the underlying factors that lead to criminal behaviour, prisons end up as places where members of the most disadvantaged and vulnerable groups of society gather in large numbers, alongside a much smaller number of dangerous and violent offenders. In recent years, sentencing trends in many countries have been affected to a significant degree by pressure of the public and/or politicians toward harsher penal policies¹. However, studies in some countries have shown that the rise in the prison population is not linked to any obvious increase in crime. Rather, judges are sending more offenders to prison and for longer periods.²

On the other hand, prison systems need to be accountable to the community. This is valid for all public services, but particularly for the prison system, which, to a large extent, is closed to public scrutiny, and where power can easily be abused. In democratic countries there is normally a line of accountability, with the prison department being answerable to the ministry of which it is part, and the ministry in turn, being accountable to parliament. However, the interference of politicians in prison management may not always lead to the increased efficiency of social reintegration initiatives in prisons. The public may regard resources being allocated to the health, social welfare, education and vocational training needs of prisoners as unfair, reducing the funds available for those who have not committed offences. Many might be in favour of keeping offenders behind bars, due to short-term security concerns. Guided by public pressure and concerns for the next election, the main priority of politicians may be to ensure that prisons are secure (i.e. that no escapes take place) which can result in pressure on prison managers to concentrate efforts on security measures, at the cost of reducing resources allocated to improving treatment and activities in prisons. Thus, it is vital that oversight of the prison system should be the responsibility of a number of agencies, independent of the ministry and government concerned. This can be achieved by giving different ministries responsibility for inspecting the management of different aspects of life in prisons (e.g. the Ministry of Health, the Ministry of Labour, the Ministry of Education), as well as having an independent lay monitoring system, made up of members of the public (specialists and others)³. It is also essential that reform programmes address the need to increase public awareness about the long-term consequences of harsh penal policies that do not help build safer societies.

Overcrowded prisons, housing a diverse mixture of people – some dangerous and violent, many in need of mental health care or treatment for addictions, rather than isolation from society, and a large number vulnerable for a range of social and economic reasons⁴, are not easy to manage – and moreover to manage in a manner that helps with resettlement. The task prison managers face in balancing the goals of security and the objective of social reintegration of a diverse range of people, while trying to respond adequately to the sometimes conflicting priorities of politicians and the public, is fraught with difficulty, especially when structures are old and resources, limited.

A policy statement on prisons issued by the current government may assist those charged with managing prisons. However in many countries, there may not be any such policy framework, or it may be found in a number of documents ranging from statements on justice as a whole or in the country's poverty reduction or other strategic plan. Some prison services have sought to work with their line ministry and development partners to develop a strategic plan for the prison service, complete with mission statement and statement of values to guide the operation of the service.

All prison services should be guided by and operate from a clear set of principles. These are to be found in the primary legislation governing the prisons service, i.e. the Prisons Act, or its equivalent. How these principles are applied in practice should be set down in secondary legislation such as the Prison Regulations that may then be refined in further detail in the Prison Standing Orders. Those prison services that have their origin in colonial rule may retain in whole or in part vestiges of 'colonial legislation'. Many of these provisions may be obsolete or irrelevant to the contemporary context. Most will have been drafted before the framework of international human rights standards governing detention and the treatment of prisoners came into effect.

In order for prison systems to be managed in a humane manner national policies and legislation must be guided by the numerous international standards developed to ensure that the human rights of prisoners are protected and that their treatment is aimed to ensure their social reintegration, as a priority. These standards include the **United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR); Body of Principles for the Protection of All Persons under Any Form of Detention and Imprisonment; Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules); Rules for the Protection of Juveniles Deprived of their Liberty and Code of Conduct for Law Enforcement Officials**, among many other international and regional documents. The assessment of whether a prison system is well managed will be based on the extent to which the standards set out in these documents are being put into practice. The ability of the prison management to implement these standards depends on the factors listed above, as well as many other details of management procedures, and most importantly on the careful recruitment and training of staff responsible for the daily administration of prisons.

This tool is based on the **UN Standard Minimum Rules (SMR)** with additional commentary from **'Making Standards Work'** (PRI: 2000); **'Human Rights and Prisons, A Manual on Human Rights Training for Prison Officials'** UN Office of the High Commissioner for Human Rights Geneva 2000; **'A Human Rights Approach to Prison Management'**, International Centre for Prison Studies, Andrew Coyle, 2002; and **'Managing Prisons in a Time of Change'**, International Centre for Prison Studies, Andrew Coyle 2002.

The tool covers all issues relating to the management of the prison system and treatment of prisoners. The focus of the tool is sentenced prisoners and the management of prisons housing them, within a formal prison system. The management of pre-trial detention facilities and the additional rights and rules relating to pre-trial detainees are covered in **CUSTODIAL AND NON-CUSTODIAL MEASURES: DETENTION PRIOR TO ADJUDICATION**. As discussed above, since an assessment and reform of a prison system cannot be undertaken without reference to the criminal justice system of which it is part, the assessor is urged to refer also to the **ACCESS TO JUSTICE TOOLS**.

Special considerations regarding visits to prisons

Prison visits lift the veil on life behind the walls but do not necessarily reveal the full picture. The full picture can only be obtained by extensive crosschecking of facts outside of prison (with NGOs, human rights institutions, medical personnel in hospitals, prison chaplains and other visiting groups, ex-prisoners and prison staff), in addition to research conducted inside the prison. However, an informed observer can identify signs that give an idea of the relations that exist within the prison and the approach of the authorities towards those in their charge. Therefore, prison visits are extremely useful to gain an understanding of the prison service's management style, even when opportunities to talk to prisoners do not exist or are limited (please see comments below regarding communications with prisoners).

If prisons visits are planned, it is recommended that:

- Preparations start well in advance of the mission and permission sought from relevant authorities for access to a representative sample of prisons, in different parts of the country and housing different categories of prisoners;
- Terms of reference for the visits be discussed with and agreed upon authorities in advance.
- A medical expert participates in visits, as relevant.

Both during the preparation period and during the mission, unnecessary insistence on access to certain prisons or parts of certain prisons may not be helpful, if the aims of the mission do not specifically necessitate such insistence (e.g. assessment of human rights violations). If the objective of the mission is to undertake an assessment for technical assistance interventions or programme development, it is vital to develop trust and mutual understanding from the outset. However, ascertaining whether the rights of prisoners are respected in law and practice should form an integral part of any comprehensive assessment mission. Therefore, laws, policies, and practices should be assessed to determine whether they are consistent with human rights standards.

Assessors inquiring into legislation and practices relating to imprisonment should be mindful of the sensitivity of the subject and endeavour **to do no harm** (to prisoners and their families) by their approach and nature of inquiries.

- It is recommended that assessors do not seek or hold private, individual interviews with prisoners, especially if no follow-up visit is planned. Private interviews generate expectations and some information given by a prisoner may put him or her at risk.
- Meetings with groups of prisoners, with or without the presence of staff, should not necessarily pose a risk, but assessors should be careful in the nature of the inquiry made also in such circumstances, taking care to avoid sensitive issues (e.g. questions regarding ill-treatment, fairness of disciplinary procedures etc).
- Information about matters such as treatment and application of safeguards in practice should be sought from alternative sources, such as the families of prisoners, ex-prisoners prison chaplains, human rights, and inspection bodies, bar associations and NGOs.

In addition to developing an understanding of the strengths and weaknesses of a state's approach to the management of a prison system, the assessor should be able to identify opportunities for reform and development. Technical assistance in the area of prison management in the context of a broader strategic framework may include work that will enhance the following:

- Legislative reforms introducing and increasing the scope of alternatives to imprisonment, decriminalising certain acts and reducing sentences for selected offences in the penal statutes;
- Improving organizational design and management processes relating to the implementation of penal legislation;
- Legislative and structural reforms enabling the transfer of the prison service from the ministry responsible for investigating charges to a separate ministry responsible for the management of prisons (e.g. from the Ministry of Interior to the Ministry of Justice) and demilitarisation of the system;
- Improving mechanisms of coordination between criminal justice agencies, as well as between prison authorities and social welfare and/or probation services;
- Legislative reforms to improve legal safeguards for prisoners and training for relevant law enforcement agencies in the application of these safeguards;
- Developing training curricula for prison service staff and providing technical assistance to training;
- Developing constructive prisoner programmes/improved prison regime;
- Improving access to justice, particularly for the poor, by providing technical assistance to develop procedures and management of legal aid programmes and supporting NGOs and others providing paralegal advisory services;

- Strategies to combat TB and HIV/AIDS among prisoners effectively; development of TB and HIV management programmes; improvement of on-entry health screening measures and health services in prisons;
- Improving inspection procedures; training and technical capacity building for independent inspection bodies;
- Designing special projects aiming to increase and improve the support to special categories and vulnerable groups;
- Enhancing capacity to develop and manage planning, research and information management;
- Increasing public awareness about imprisonment and alternatives to prison; increasing community participation in the criminal justice process.

2. OVERVIEW: GENERAL AND STATISTICAL DATA

Please refer to the **CROSS-CUTTING ISSUES: CRIMINAL JUSTICE INFORMATION** for guidance on gathering the key criminal justice statistical data that will help provide an overview of the prison population and overall capacity of the criminal justice system of the country being assessed.

Listed below are additional indicators that are specific to this Tool. Some countries may not have this information available. It is advisable to request it in advance, as it may take time to obtain it.

Written sources of statistical information may include, if they exist:

- Ministry of Justice or Ministry of Interior reports
- Penal System reports
- National Human Rights reports
- Reports by prison inspection bodies (national and international)
- Reports by Law Society or Bar Associations
- Non-governmental organisation (NGO) reports on the prison system
- Donor reports

The contacts likely to be able to provide the relevant information are:

- Ministry of Justice/ Ministry of Interior
- Senior prison service officers
- Judiciary (especially those who visit prisons)
- Human Rights Commission
- Prison inspection bodies (e.g. lay monitoring boards, human rights commission, Committee for the Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment (**CPT**), Special Rapporteur on Prisons and Conditions of Detention in Africa etc)
- Law Society or Bar Associations
- NGOs working on criminal justice matters
- Donor organisations working on the criminal justice sector

Accurate baseline data is an essential pre-requisite for policy formulation and designing effective intervention strategies. In many countries the data is neither accurate (i.e. objectively verifiable. For instance, the 'capacity' of an individual prison may be cited without reference to measurable space per person); nor available (due to civil unrest, poor data gathering, lack of resources, outdated sources etc). The importance of gathering data that is proven accurate (or indicated if not) cannot be over-emphasized. It is, therefore, essential to gather information from a variety of sources, and determine the methodology used for data collection and the geographical coverage of information provided.

The data assembled below will inform any recommendations for technical assistance interventions.

2.1 OVERVIEW OF COUNTRY AND PRISON SYSTEM

- A. What is the total population of the country?
- B. How many districts/provinces?
- C. How many prisons? How are they distributed geographically?
- D. How many pre-trial detention facilities? How are they distributed geographically?
- E. How many young offender institutions? How are they distributed geographically?
- F. How many prisons for female offenders? How are they distributed geographically?
- G. What types of prison exist at present, e.g. maximum/medium security; central/district prisons?
- H. Are there any open prisons? How many?
- I. Are there any privately run prisons? How many? Who runs them?

2.2 Prison population

- A. What is the total prison population?
- B. What is the prison population rate per 100,000 population? For example, if there are 10,000 prisoners in a population of 10 million, the rate is 100:100,000.
- C. What is the capacity of the prisons system? How is this capacity measured, i.e. m² per person?
- D. What are the maximum and minimum capacities of each type of prison and what is the actual population?
- E. What is the capacity of open prisons and what is the actual population?
- F. What is the capacity for youth offender institutions and what is the actual population?
- G. What is the capacity for women's prisons and what is the actual population?
- H. How many prisoners are in private prisons, if they exist?

2.3 PROFILE OF PRISON POPULATION

- A. What is the percentage of prisoners on remand/awaiting trial? (Figures for the last 3 years)
- B. What is the percentage of those sentenced to less than 2 years? (Figures for the last 3 years)
- C. What is the percentage of those sentenced to more than 10 years? (Figures for the last 3 years)
- D. What percentage of the prison population is serving a life sentence? (Figures for the last 3 years)
- E. What is the number of prisoners sentenced to death? How many of them are awaiting the results of their appeals?
- F. What is the percentage of sentenced women and women with accompanying children? (Figures for the last 3 years)
- G. What is the percentage of minors / juveniles (under 18)? (Figures for the last 3 years)
- H. What is the percentage of foreign nationals and members of minority groups? What are the figures for the last 3 years?
- I. What is the percentage of those convicted of drug related offences?
- J. What is the percentage of prisoners diagnosed as mentally ill?
- K. What percentage of the prison population is considered to be 'dangerous' (i.e. measured in terms of sentence and categorisation)?
- L. What percentage of the prison population was sentenced under a special "anti-terror act" or similar?

2.4 QUALITY OF DATA

- A. What methodology is used by the authorities to collect and process the information provided?
- B. When general information is given, what is the geographical coverage? Do the figures refer to the whole country or only to some regions?
- C. When was the information collected?

3. LEGAL AND REGULATORY FRAMEWORK: LAW AND PRACTICE

The following documents constitute the main sources from which to gain an understanding of the legal and regulatory framework governing the prison system. Check the following legislation and refer to the international and regional law framework to identify any disharmony and inconsistency.

The Constitution: The Constitution often includes a Human Rights Chapter and usually sets up watchdogs to ensure the rights set down in the Human Rights Chapter are adhered to. Some will include a mechanism for inspecting prisons.

Criminal/Penal Code and Criminal/Penal Procedure Code: The penal code will include information on types of offences and sentences for each offence. Sentences will normally include non-custodial sanctions, as well as imprisonment. The rules relating to the process – arrest, detention, trial, remand, imprisonment – are set out in the Penal Procedure Code

Prison Act, Criminal Executive Code, Penal Enforcement Code or similar, contains a set of principles by which prisons are governed.

The Prison Regulations constitute secondary legislation that guide prison officers on the application of the law set out in the above code or act (primary legislation).

In some prison systems, **prison standing orders** will refine further the details of the prison regulations.

The Probation Act, or similar, will include rules relating to community sanctions and measures and the responsibilities of probation services especially during the pre-trial period and in preparing prisoners for release.

Provisions governing juvenile justice are set down in Children and Young Persons' legislation such as a **Juvenile Court Act** or similar. The Prison Act and legislation governing young persons may also set out who is able to visit prisons and institutions for young offenders, such as elected members of parliament or congress and judicial officers; others admit accredited members of the legal establishment and civil society.

However, what is stated on paper is often not reflected in practice. In many countries, the observation can be made that the laws themselves are good but that the implementation of these laws is wanting. Having established what the national legislation provides for, the assessor should examine what the actual situation is, during site visits to a representative sample of prisons in different parts of the country and interviews with local prison staff, offenders (when appropriate), ex-offenders, their families, lawyers and NGOs.

Suggested questions are divided into themes and include questions on law and practice. They should be raised both at central and at local levels.

Before inquiring into the details of existing legislation and practice under each topic under **Section 4, Management**, the tool assists the assessor to gain an overview of legislation relating to imprisonment and determine what, if any, attempts were made to reform legislation in recent times.

3.1 LEGISLATION: OVERVIEW

- A. What are the minimum and maximum prison terms in the Criminal/Penal Code? Are there mandatory maximum penalties? How is the judge guided in determining the applicable penalties, e.g. the criminal procedure code, sentencing guidelines, precedent? Does the judge have discretion in whether to impose imprisonment or an alternative?
- B. Are there alternatives available? What is the upper limit of prison sentences to which they may or should be used as alternatives? What kinds of alternatives exist in legislation?
- C. What are the rules for the classification of prisoners? Do all prisoners undergo a risk assessment to determine the prisons to which they will be allocated, e.g. high security, medium security etc.?

- D. Does the death sentence exist? Which crimes carry the death sentence?
- E. Are death sentences being carried out or has a moratorium been imposed?
- F. Does the Prison Act/Criminal Executive Code/Penal Enforcement Code provide for temporary and early conditional release schemes from prisons? What are the rules? Is conditional release discretionary or mandatory?
- G. Who is placed in open prisons? Are some prisoners convicted of minor offences housed in open prisons? Which ones? What are the rules for transfer to open prisons from closed prisons?
- H. Is there any anti-terror legislation in force? When did it come into force and what offences does it cover?

3.2 LAW REFORM

- A. When were the Criminal/Penal and Criminal/Penal Procedure Codes last reviewed? Did the review include, for example:
 - A rationalization of sentencing, including decriminalization of certain offences and reducing sentences for others
 - Increasing possibilities for alternatives to prison.What changes were made, if any?
- B. When was the Prison Act/Criminal Executive Code/Penal Enforcement Code last reviewed? What changes were introduced, if any? For example, did the review increase prisoners' rights, improve measures addressing the social reintegration needs of offenders, increase possibilities for temporary and early release, transfers to open prisons?
- C. Is there a law commission or law review body that is considering the criminal/penal statutes? What laws are currently under review? What are the changes being considered?

4. PRISON MANAGEMENT

4.1 ADMISSION AND ASSESSMENT

Article 10 of the **Declaration on the Protection of All Persons from Enforced Disappearance** requires that in any place where a person is deprived of liberty an up-to-date register shall be kept. This requirement is repeated in **Rule 7 of the Standard Minimum Rules**, which also rules that “[n]o person shall be received in an institution without a valid commitment order of which the details shall have been previously entered in the register.” (SMR 7(2)).

Rule 35 of the Standard Minimum Rules states: “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. If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally”.

Principle 24 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment rules that a medical examination of every detainee and prisoner should be undertaken on admission and treatment for any medical conditions provided free of charge. This requirement is underlined also in Rule 24 of the **Standard Minimum Rules**. Please see **Section 4.3** for further guidance.

- A. Under the law, what are the obligatory procedures upon reception of a prisoner? Is there a legal obligation to maintain a register, where, on reception, each prisoner’s details are noted? In practice, is the registration procedure always adhered to? Is the practice consistent among the prisons visited?

The register should include:

- All details of the prisoner:
 - name
 - date of birth
 - gender
 - identifying features
 - address
 - nationality\
 - language
- legal authority for imprisonment
- date of admission
- date of release
- details of next of kin
- a list of personal property (distinguishing between those which the person can keep in his/her possession and those which is stored by the authorities)
- signatures (of the member of staff who completed the forms and of the prisoner to confirm that he/she has been given details of his/her rights)
- a separate medical record.

See **Human Rights and Prisons, A Manual on Human Rights Training for Prison Officials, UN Office for the High Commissioner for Human Rights, Geneva 2000, Annex 1** for further details.

- B. Is the person presented with a clear set of rules and regulations? Do the regulations list conduct or acts that constitute disciplinary offences and the punishments that may be imposed?
- C. Is a prisoner’s next of kin, friend or legal representative informed when he or she is admitted to prison? How soon after admission does this typically happen?
- D. Are staff in the reception area specially trained to undertake the admission process? Are they trained to treat new prisoners with dignity? Are they trained to recognize prisoners who are most at risk of harming themselves or of being harmed by other prisoners?

- E. Do judges who pass sentences determine the security regime that applies to prisoners or is there a classification system at the beginning of each prisoner's sentence? The better practice is for the prison authorities to determine the security level after a professional assessment, rather than regime being determined by a judge, based on the crime committed.
- F. If there is a classification system, what procedures does it involve? Who is responsible for assessment and classification? Are they adequately trained for this purpose? Is a flexible classification system maintained, with regular reviews?
- G. Is a sentence plan formulated for each prisoner? Who is involved in the process? Is the prisoner consulted? Are psychologists, social workers and medical specialists involved? What are the components of a typical sentence plan? Is the plan kept under regular review?
- H. Is there an induction period for each prisoner? What activities does this period include? Is, for example, the relevant legislation, regulations, routine of daily life explained and prisoners given an opportunity to meet people who can help them, e.g. religious representatives, teachers, psychologist, social worker, medical officer and others?

In some systems, there are special prisons for newly admitted prisoners, where prisoners undergo an induction/training period before they are transferred to the prison where they will serve their sentence. In others, prisoners are held in a section of the prison for a fixed period (1 week to 2 weeks) where assessment takes place and they are introduced to the prison rules and regulations. (This may be called the "quarantine" section). However, in practice, conditions in such sections can be very poor and sometimes prisoners can be ill treated particularly during this period. Assessors should visit such areas/units to check conditions and talk to staff responsible for assessments to try to get an idea of the manner in which the induction period is utilized.

- I. To what extent are records kept about each prisoner throughout the time that he/she is kept in prison? Do any such records include, for example, results of medical examinations (in medical file), programmes they have participated in, prison leaves, transfers, date of eligibility for conditional release etc?
- J. In prisons visited, are all prisoners held under a valid order of the court? What happens when they expire? Is there a protocol or procedure in place to keep track of the expiration date of court orders? Who calculates the release date of a prisoner? Under what established protocols/procedures?

4.2 LIVING CONDITIONS

Living conditions in a prison are among the chief factors determining a prisoner's sense of self-esteem and dignity. The quality of accommodation, how sleeping is arranged, what and where prisoners eat, what they are allowed to wear, whether they have ready access to sanitary facilities all have a tremendous influence on a prisoner's feeling of wellbeing. Even where physical conditions are adequate, restrictive practices, such as having to ask a guard to gain access to the toilet, may have a very negative impact on prisoners' mental health.

Living conditions include the **prison climate**, which is determined by the management style and the nature of relations between staff and prisoners. The prison atmosphere can be felt and observed during a prison visit. For example:

- do prisoners appear to mingle easily with prison officer?
- do some prisoners appear to exercise authority over others (do some carry batons, look better dressed, occupy single cells when others occupy dormitories)?
- do they turn their faces away as you approach or stand at a distance to avoid contact?
- is your escort closed or relaxed - are you taken swiftly along or allowed to linger and talk to prisoners?
- do you feel any threat to your personal security?

Corruption: It is essential to bear in mind that prisoners almost always have different levels of access to facilities, based on their social status, strength, wealth and connections. Corruption among staff and prisoners is present in most, and widespread in many prisons (especially in low-income countries, but not only), affecting the extent to which prisoners can enjoy their rights and receive some of their most essential requirements, such as a bed, food, and medication. The assessor is advised to refer to **SECTION 6.6, CORRUPTION**, while considering the adequacy of living conditions in prisons, as well as healthcare facilities.

4.2.1 Accommodation

- A. In prisons visited, is the prison infrastructure in need of renovation and rehabilitation?
- B. Are sentenced prisoners separated from prisoners awaiting trial?
- C. What type of accommodation is provided? Are prisoners accommodated in individual cells, rooms for up to 6-12 people or larger dormitories? If individual cells, what is the size of each cell? If rooms or larger dormitories, how much individual space are prisoners entitled to by law and how much space do they have in practice? Are some dormitories less crowded than others? Do they belong to privileged prisoners?

The amount of **space** each detainee or prisoner should have is a question frequently asked. SMR do not prescribe a specific minimum size of space for each prisoner. It rules that "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" (**SMR, Rule 10**). The **European Prison Rules** also do not recommend a specific amount of space (See **Rule 18.1**). However, commentary to Rule 18 indicates that **CPT** considers 4 square meters as a minimum requirement in shared accommodation and 6 square meters for a prison cell. These minima depend, however, on how much time prisoners actually spend in their cells, and should not be regarded as the norm. Although **CPT** has never laid down such a norm directly, indications are that it would consider 9 to 10 square meters as a desirable size for a cell for one prisoner. (See **Commentary to Rule 18 of the European Prison Rules (2006)**).

Dormitory housing brings about a whole range of concerns, not only related to the amount of space. High numbers of people with criminal and sometimes violent backgrounds living together in a closed environment can encourage violent behaviour and the singling out of vulnerable prisoners for abuse. Therefore, careful selection of prisoners to be housed together and the supervision of dormitories, particularly at night, are essential components of good prison management in such circumstances.

Although single cells for prisoners are the desired option, this should not imply a limit on association during the day. The benefit of privacy during the night needs to be balanced with the benefit of human contact at other times. Where adequate time for association and activities are not provided, placement in single cells may result in partial or complete prisoner isolation, with harmful effects on the mental wellbeing of the persons concerned.

- D. What is the official capacity for each cell or dormitory? How many people in each cell or dormitory in practice, i.e. in prisons visited, as well as information about other prisons, if available? Are there vast geographical variations? Examples.
- E. What kind of beds are prisoners provided with, e.g. mats, single beds, bunks – 2-tier, 3-tier? Are sheets and blankets provided? Do they look clean? In prisons visited, if possible, check the beds. In cells/dormitories visited, does each prisoner have a bed? If not, ask how they sleep at night. This is not a sensitive question, since the situation is obvious – but it is best to ask in the presence of staff.
- F. Do prisoners have anywhere to put their personal items, such as bedside tables, wardrobes etc? Is this the case for each prisoner or only some?
- G. Are there windows that can be opened by prisoners? Are they adequate? Are they open or closed at the time of visit? The assessor may want to ask prisoners and staff if they are

aware of the need for adequate ventilation to help prevent TB, and if so, whether they know the rules/protocols, and whether they apply them.

- H. Are there electric switches inside the cell/dormitory allowing prisoners to regulate their own lighting? Are they available in every cell or dormitory?
- I. Are there members of prison staff responsible for supervising dormitories at regular intervals at night? What does supervision entail? Do they go into the dormitories regularly to check on the wellbeing of the occupants? Are they stationed close enough to the dormitory to hear anything that may be occurring inside?

4.2.2 Hygiene

- A. Is there regular running water in prisons? If not, what arrangements have been made to supply prisoners with water? What, if any, precautions have been taken to ensure that the water is clean? If there is running water – how often can prisoners have access to hot water? How does the availability and quality of water vary geographically?
- B. Do toilets and washing space exist in or close to every dormitory/cell? What is the ratio of prisoners to toilets, hand-washing facilities? There is no internationally accepted minimum ratio. Adequacy of facilities will need to be assessed based on the ratio and level of access to the facilities – i.e. constant or limited. If the toilet is in the dormitory, is there any partition for privacy? If toilets are outside the cell/dormitory, where are they? Do prisoners have to get permission to use them? Please see **SMR, Rule 12**.
- C. If showers are located outside the dormitories, how often can prisoners gain access to them? Is there a regular day set aside each week for bathing in a communal bathing facility? How many times per month? Please see **SMR, Rule 13**.
- D. To what extent are prisoners provided with articles necessary for personal hygiene? Are they, for example, provided with soap, toothbrushes, toothpaste, and towels? Are these provided free or charge?

4.2.3 Clothing

Rule 17(l) of the **SMR** provides that “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.” In fact, for many prisoners, wearing their own clothing is extremely important, as it gives them a sense of individuality and increases self-respect. In the **European Prison Rules (2006)**, the rule relating to clothing reflects this factor, by omitting the possibility of prisoners’ not being allowed to wear their own clothing: “Prisoners who do not have adequate clothing of their own shall be provided with clothing suitable for the climate”. (**EPR, Rule 20.1**)

- A. Are all or some prisoners allowed to wear their own clothing? If only some are allowed, what criteria apply? Do only privileged prisoners enjoy this right?
- B. If prisoners cannot afford their own clothing, is clothing provided by the prison administration? Is this a uniform, overall or civilian clothing? Is the clothing provided suitable for the climate? Is it dignified?
- C. What is the source of prison clothing or uniforms? Are they made at the prison?

During prison visits, the assessor should note the prisoners’ clothing: are they in prison uniform, or their own clothes; do the clothes suit the climate do they appear to be in good repair; do some appear better dressed than others?

4.2.4 Food

- A. Do prisoners have access to clean drinking water? To what extent? Is the tap water drinkable? Is drinking water provided by the administration on request? How much water is provided per prisoner, per day? Please see **SMR, 20.2**.
- B. Is the required nutritional value of prisoners' diet determined by national law reflected in prison regulations, standing order, etc.? Do these requirements reflect the needs of different groups of prisoners? To what extent are the requirements met? Please see **SMR, 20.1** and **EPR, 22.2**.
- C. How much money has been set aside in the prison budget for the daily nutrition of each prisoner? Has there been any increase or decrease in recent years? In what way has increase or decrease in budget affected the quality of food?

The assessor may observe whether the prisoners appear to be adequately nourished, in the prisons visited. Although a professional assessment will need the opinion of a medical specialist, much can be noted even by a non-specialist observer.

- D. How often do prisoners receive food each day?
- E. Where is food prepared? Does the prison have its own kitchen? Is it clean? Where is food stored? Are there cold storage facilities?
- F. Is food prepared elsewhere and delivered to the prison? How much time elapses between preparation and serving?
- G. Do prisoners rely on their families or other external sources for food? Are they allowed to receive food from outside prison? Are there any restrictions? What happens if a prisoner's family (or other source) is not able to provide food?
- H. Does the prison grow some of its own food? What does it grow? To what extent does food grown by the prison cover the needs of the prisoners? Does it have its own bakery? If so, is the bread produced sufficient for prisoners' daily requirement?
- I. Are prisoners given an opportunity to work in the kitchen? Which prisoners can work in the kitchen?

4.3 HEALTHCARE

Article 12 of the **International Covenant on Economic, Social and Cultural Rights** establishes "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health". Those who are imprisoned retain this fundamental right and their entitlement to a standard of medical care that is at least the equivalent of that provided in the wider community. (See **Basic Principles for the Treatment of Prisoners, Principle 9**). When a state deprives people of their liberty, it assumes responsibility for their healthcare. Ensuring that prisoners maintain good health is essential for success of public health policies, as disease in prisons is easily transferred to the public via staff and visitors, with almost all prisoners eventually returning to the community and potentially transmitting infections to others. Faced with the alarming increase of TB and HIV in prison worldwide, it is essential to recognise this reality, and take all necessary precautions to prevent the spread of transmissible diseases.

It is vital that all prisoners undergo a medical examination and health screen on entry, on an individual basis. (**Body of Principles for the Protection of All Persons Under any Form of Detention of Imprisonment, Principle 24**). This is important to ensure that the prisoner starts receiving proper treatment for any health conditions immediately, but it is also critical (a) to identify any signs of ill-treatment in previous detention/custody; and (b) to diagnose the presence of any transmissible disease such as TB. Ideally detainees and prisoners should also be encouraged to undergo voluntary testing for HIV, with pre- and if necessary post- counselling, but they should not be obliged to do so.

(See UNODC/WHO/UNAIDS manual: HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings: A Framework for an Effective National Response (2006); Council of Europe, Committee of Ministers Recommendation No. R (93) 6, Concerning Prison and Criminological Aspects of the Control of Transmissible Diseases Including AIDS Related Health Problems in Prison, Rule 3 and CPT 3rd General Report.

Please see also Sections 5.2 and 5.3, for guidance on special medical needs of women and the mentally ill, respectively.

4.3.1 Access to Healthcare

- A. To what extent, if at all, is the health policy in prisons integrated into, and compatible with, national health policy? Does the Ministry of Health and civil healthcare services have any responsibility for the healthcare of prisoners? What does this entail? In practice do civil healthcare services provide medical services in prisons? Please see SMR, 22(1), EPT, 40.1 and 40.2.
- B. Is it a rule that a medical examination of each prisoner is undertaken on admission to a prison? Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 24. Is this rule applied in every prison? Is the examination undertaken on an individual basis? What does the examination comprise?
- C. Are medical examinations undertaken confidentially – i.e. out of hearing and out of sight of prison staff, unless the doctor concerned expressly requests otherwise in a particular case? If not, who is normally present during a medical examination?
- D. Are prisoners given in written form the prison rules relating to medical care? Is this standard practice? If not, how do prisoners learn about their rights relating to medical care?
- E. Are medical reports kept in the file of each person? What information do medical files include? If possible, ask to examine medical files in prisons visited. Who may see medical files? To what extent are they confidential? No staff within a prison, with the exception of the health care staff, should have access to a prisoner's medical records or medical information.
- F. Are reports of medical examinations undertaken in police custody and pre-trial detention transferred to prisons on a systematic basis or is there no such procedure? If they are, how efficient is the system? Do files get lost? How often?
- G. To what extent, if at all, are prisoners given information on transmissible diseases and prevention methods on entry to prison? Does it include information about TB and HIV transmission? Is the information written and is it sufficient?
- H. Does the medical examination include screening for TB? How is the screening undertaken? What measures are taken if a person is diagnosed with TB? Is there separation of TB cases according to medical categorisation? Are TB patients treated in hospital? Is DOTS (Directly Observed Therapy Short-Course) used for treatment? If not, how are patients treated?

Many questions need to be asked about quality of treatment, access to treatment, recording, reporting, policies and strategies for a proper assessment. These questions seek only to identify the basic situation and challenges, to be investigated further by a medical assessor if necessary.

- I. Are detainees tested for HIV? Is the testing voluntary or obligatory? Is pre- and post-test counselling provided? What happens if a person is found to be HIV positive? Are they isolated? How does practice vary geographically and from prison to prison?

CPT and other international bodies emphasize that there is no medical justification for the segregation of HIV positive prisoners solely on the grounds that they are HIV positive. (Council of Europe Rec R (98) 7, Rule 39; **CPT/Inf** (93) 12, para. 56.) However, sometimes prisoners themselves prefer to be accommodated with others who are HIV positive, due to fear of stigmatisation if accommodated with the general prisoner population.

Please refer also to the UNODC/WHO/UNAIDS manual: **HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings, A Framework for an Effective National Response.**

- J. Do all prisoners have access to medical treatment in practice? What is the process? Do prisoners have to request access to a medical officer in writing or does a doctor visit cells/dormitories on a regular basis? If access is based on application - how long does it normally take from the submission of a request to medical examination?
- K. To what extent are clinics/health facilities in each prison equipped for consultation and treatment? In prisons visited, do medical officers feel that they have sufficient equipment – what else do they need?
- L. What are the most common ailments? Is there an adequate supply of medicines in each prison for these ailments? It is important to note the inventory of drugs/medicine, noting particularly the expiry date on some sample jars/bottles.
- M. How are supplies regulated? Are they distributed centrally or is the system decentralised? Please see also **Section 6.3, Procurement**. Do medical officers in prisons visited feel that their supplies are adequate?
- N. Are there facilities for physiotherapy? What treatment do they offer? Do all prisons have such facilities or only a few?
- O. Are there dentistry? Are they adequately equipped? How many prisons have them?
- P. Are special diets provided for those for whom they are medically necessary? How is the need and diet determined?
- Q. What, if any, treatment is provided for drug addicts and other substance abusers? Is treatment available in all prisons or only a few? Does it combine medical treatment with therapy? Are drug addicts/substance abusers housed with the mentally ill or among other prisoners? In some countries substance addicted prisoners are inappropriately accommodated in the psychiatric section of penitentiary hospitals.
- R. Is self-mutilation a widespread problem? How does the management and medical service treat those who harm themselves? Do they receive psychological and/or psychiatric assistance? Are they punished? Are physical restraints used?
- S. What are the rules relating to the treatment of prisoners who are seriously ill? Are they transferred to hospitals? Who decides? How long does the procedure take? Are there delays? If so, what are the reasons for delays?
- T. Are early release mechanisms available for those who are terminally ill? What do they consist of and to what extent are they applied?
- U. How many deaths are recorded per year and from what causes? What are the rules relating to dealing with deaths in prison? Is there provision in legislation for an inquiry into the death to be held by a judicial authority? What happens with the report of the inquiry? Can the family or any lawyer involved be informed of the results of the inquiry? In practice, to what extent are such rules applied? Please see **Body of Principles**

into the death to be held by a judicial authority? What happens with the report of the inquiry? Can the family or any lawyer involved be informed of the results of the inquiry? In practice, to what extent are such rules applied? Please see **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 34.**

4.3.2 Healthcare Personnel

A basic requirement to ensure that prisoners have access to healthcare is to ensure that each prison has a fully qualified medical practitioner. In addition to a doctor (or more than one doctor in large prisons), there should be other qualified health care personnel reporting to the doctor, delivering medical assistance and care.

Please refer to **SMR, 22-26** and **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.**

- A. How many medical staff are there in each prison and what are their qualifications? Does the number vary according to the prison population?
- B. How many qualified doctors are there in each prison? Does the number of doctors available vary according to the prison population? In the prisons visited are the positions of doctors vacant or occupied? If there is no full time doctor, are medical services provided by civil healthcare authorities? What are the procedures and how often does a medical specialist visit the prison?
- C. What training, if any, does medical staff receive in connection to providing medical services in the prison setting?
- D. To what extent are staff educated on the transmission of disease, especially TB and HIV, and forms of protection?
- E. Do the responsibilities of the doctor include the examination of all prisoners who are placed in disciplinary confinement, each day, and the provision of any treatment they need? Are they responsible for informing the prison director whenever he/she considers that a prisoner's physical or mental health is being put seriously at risk by continued imprisonment or by any condition of imprisonment, including conditions of solitary confinement? Please see **SMR, 25.2**; also **EPR, 43.3**.

If the prison doctor serves dual roles, functioning as both medical specialist and as adviser to the prison director, and at the same time is directly subordinated to the prison director rather than being part of a civil healthcare structure, he or she will have a very difficult and sensitive role to fulfil. In terms of medical ethics, doctors should never be involved in security or disciplinary matters of any kind, including determining whether to place someone in solitary confinement. (Please see **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 4 (b) and 5.**) The medical examination of prisoners in solitary confinement should not be involved in nor should it be considered to be part of the decision-making process in the determination of punishment.

- F. Do the medical officer's responsibilities include the monitoring of prison conditions to ensure that the environment in which the prisoners live is healthy, e.g. hygiene, access to fresh air, ventilation, quality of food etc.? Please see **SMR, 26.1**
- G. Is there a full time dentist in each prison? If not, what arrangements are in place to provide dental care for prisoners?

- H. Is there a full time psychologist in each prison? If not, what arrangements are in place to provide for psychological consultation for prisoners in need and especially for those who have mental problems? Please see **Section 5.3, The Mentally Ill**.

4.4 CONTACT WITH THE OUTSIDE WORLD

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 in the task of social rehabilitation of prisoners. (**SMR, Rule 61**). "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." (**SMR, Rule 80**, also **EPR, 70.1**)

Ensuring that prisoners have sufficient contact with the world outside prison is essential to alleviate feelings of isolation and alienation, which hinder social reintegration. Enabling prisoners as much contact as possible with their families and relations will help sustain relationships, contributing to an easier transition from prison to civil society on release.

In some countries, where resources for prison activities are inadequate, continuing links with families and the community may be the main method available to reduce the harmful effects of imprisonment and help with reintegration.

All prisoners, pre-trial and sentenced, are entitled to legal advice, and the prison authorities are obliged to provide them with reasonable facilities for gaining access to such advice and facilities for consultation. (**UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 18**). Prisoners are entitled to consult on any legal matter with a legal adviser of their own choice. This may be either at their own expense or they may receive legal aid for free legal advice. Please see also **EPR, 23.1-23.6**.

- A. Does legislation and policy provide for housing prisoners close to their communities? How does this work in practice?
- B. Is sentenced prisoners' right to have access to legal counsel and legal aid, if necessary, provided in legislation? If so, is such access available in practice? In prisons visited how many prisoners are receiving legal aid? Are prisoners provided with contact points to access legal advice and assistance?
- C. How often are sentenced prisoners allowed to receive visits – for what duration? Are these visits closed/open (i.e. do they permit contact)?
- D. Are conjugal visits allowed – how often? Are family visits allowed (with children) – how often?
- E. Are prisoners allowed to phone their family/relatives/friends? How often? Are telephone facilities provided in prisons? Are they adequate?
- F. How often can prisoners send and receive letters?
- G. Do prisoners have access to newspapers, magazines and journals? Is television or radio available to all prisoners? Where are they placed?
- H. Is cooperation with civil society organizations provided for in legislation? To what extent are NGOs and other community groups active in prisons? Do prison authorities encourage such activity?
- I. Which civil agencies work inside prisons (social assistance, healthcare etc)? What kind of services do they provide?
- J. Are sporting events outside prisons promoted? Is there a calendar of sporting events?

4.5 PRISON REGIME

The term **regime** in this tool is used to encompass prison work, vocational training, education, library provision, offending behaviour programmes, counselling, group therapy, exercise, physical education, sport, religious or spiritual guidance, social and cultural activities, and preparation for release. The quality of regime underpins the success of the social reintegration of prisoners.

Providing a balanced range of activities that are associative, constructive and non-exploitative should encourage a law-abiding and self-supporting life on release. Gaining vocational skills, work experience and education, in particular, are essential to the successful reintegration of prisoners after release. It is very important also for the psychological well being of prisoners to spend most of their time out of their cells. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (**CPT**), for example, stresses that a satisfactory programme of activities (work, education, sport, etc.) is of crucial importance for the well-being of prisoners, with the goal being to ensure that prisoners spend 8 hours or more outside their cells, engaged in purposeful activity of a varied nature. (**CPT/Inf (92) 3**, para 47) This should apply to all prisoners (except for those in segregation units due to disciplinary offences).

Enabling prisoners to spend most of their day out of their cells, engaged in a range of activities, has implications on the way in which prisons are managed. There needs to be sufficient and adequately trained staff to ensure safety and order, and to supervise activities. Staff must also ensure that vulnerable prisoners, particularly, are protected during communal activities.

4.5.1 Individualization

Individualization is essential for the reintegration requirements of prisoners to be met effectively according to the needs of each individual. See **SMR, Rule 63**, also **67-69**.

- A. Does legislation provide for assistance according to individual needs by planning prisoners' personal development based on individual assessments? Is a sentence plan worked out for each prisoner at the beginning of his or her sentence? What does the plan include? Is the prisoner consulted?
- B. Is there an organized, structured daily programme for prisoners included in their sentence plans? What period in a day is set aside for these activities?
- C. Are transfers to lower security prisons/open prisons made on the basis of individual assessment?

4.5.2 Education

- A. Do prisoners have access to the national education curriculum? How does the system work? Does the prison administration work in cooperation with the Ministry of Education? What are the rules for taking exams?
- B. Are teachers employed by the prisons or encouraged to visit from outside? How many teachers are there in each prison by law and in practice?
- C. Are there provisions for distance education? Is there access to computers?
- D. Can prisoners receive nationally recognized diplomas/certificates on completion of their courses?
- E. Are prisoners with the requisite skills encouraged to teach others?
- F. Does each prison have a library? Are libraries adequately stocked with current affairs and reading materials in the language most commonly spoken? Are prisoners allowed to study in the library? Is there sufficient space and furniture for study?
- G. Are books and journals available in minority and foreign languages?

- H. To what extent are prisoners permitted temporary releases from prison for educational purposes? Upon what assessment criteria? What rules apply in closed prisons and in open prisons?
- I. In the prison visited, how many, if any prisoners are currently taking advantage of educational release?

4.5.3 Vocational Guidance and Training

- A. What skills are taught in prison? Can prisoners exercise personal choice in which training programme to join? Are vocational skills training programmes designed to help prisoners receive employment after release, e.g. do they correspond to the needs in the community into which the prisoners will be released?
- B. Are prisoners trained to a recognized national/regional standard? Do they receive recognized certificates?
- C. Who provides training? Is training provided by civil institutions/ businesses?
- D. Can prisoners attend vocational training courses outside prisons, e.g. from open or other prisons?

4.5.4 Work

Research shows that steady employment is one of the most important factors preventing re-offending.⁵ In principle work provided for prisoners should include vocational training and increase offenders' chances of employment after release, rather than being any kind of work available.

Care should be taken that prison labour is not exploited and the profit motive does not override the aim of increasing the earning capacity of prisoners after release. **(SMR, 71 (4), 72 (2))** The principle of normalization of prison life should underpin the working arrangements in prisons, with normal working hours, health and safety considerations, adequate remuneration and inclusion of prisoners in the national social security system, being components of the working conditions, so far as possible. **(SMR, 74-76; EPR, 26.10-26.17)**

- A. Is the opportunity for work provided to all sentenced prisoners? What work is available in the prisons? In the prisons visited, what percentage of the prisoners has work each day?
- B. Do prisons produce goods for the internal prison market, e.g. furniture, clothes, bed linen?
- C. Are items produced for schools, hospitals, public services, the public?
- D. Is the purpose of work to make a profit for the prisons or to ensure that the prisoners receive skills that will help them with employment after release? If the principle is said to be the latter, is this clearly stated in the Prison Act or similar? Is the principle put into practice? How is this evident?
- E. Can any of the work be described as 'afflictive' **SMR, 71**? Is such work necessary? How is that work assigned?
- F. Is the work remunerated? What are prisoners paid for their work inside prisons / outside prisons? What is the national minimum wage? How are the moneys earned banked? Are prisoners able to save any of their money?

- G. Where no remuneration is provided what rewards are earned? For example, do prisoners receive extra food or payment in kind?
- H. What is length of the average working day? Are rest days, holidays provided?
- I. Are prisoners appropriately dressed and protected? What safety procedures are in use?
- J. Are outside contractors allowed to provide work for prisoners in prisons? If so, what are the conditions? Do they provide vocational training? Is the remuneration comparable to that on the outside market? Do prisoners then receive an opportunity to continue working in the same business following release?
- K. Are prisoners permitted to work outside in the community from closed and open prisons? Upon what assessment criteria? How many are currently working in the community in practice?
- L. Is work and educational release granted during the later stages of imprisonment, to prepare prisoners for release, or is it an integral part of prison regime during the whole sentence period?

4.5.5 Counselling and Offending Behaviour Programmes

This section will not apply to many prison systems being assessed, although some support in this area may be provided by NGOs, if not by the prison service itself. The assessor should be mindful that, in low-income countries, the focus of prisoner reintegration should be ensuring contacts with the family and community, providing work, skills training and education, assisting with finding accommodation after release, rather than therapy programmes which are likely be too costly.

The suitability of some programmes, which aim to influence individual behavioural patterns, in the context of communitarian cultures (e.g. sub-Saharan Africa) has been questioned, while ethical concerns have also been raised about the obligation for prisoners to undertake such programmes in some countries, when these were not originally part of their sentence.⁶

- A. Does the prison system run offending behaviour programmes or group therapy/counselling to address the offence related needs of prisoners? What are they? Are staff that deliver the programmes appropriately trained? Are they specialists from outside or NGOs? How many prisoners participate? What are the results? Have any evaluations been undertaken?
- B. To what extent are these programmes or courses of therapy integrated into an individualized assessment and sentence management system? Is attendance voluntary or obligatory?
- C. If the above does not exist, are there any initiatives to address the special needs of prisoners? What do they consist of? Who runs them?
- D. What are the areas in which prisoners most commonly need specialist assistance, e.g. substance abuse, self-harm, anger management, sexual offences etc.?

4.5.6 Recreation

- A. What recreational activities are provided for in legislation and practice? What are the rules and regulations relating to participating in recreational activities?
- B. Are visits encouraged from external arts organizations/groups?
- C. What sports facilities are available? What equipment do they have? In practice, how often do prisoners take part in sports activities?

- D. Are there theatres in prisons? How often are shows produced? Who organizes the shows?
- E. Are there musical facilities – are there a choir, a band, and orchestra? How many prisoners take part?

4.5.7 Religious / Spiritual Support and Assistance

- A. What are the major religions represented in the prisons? Are they provided for in terms of chaplaincy visits, places of worship and diet? Are there special places of worship for them?
- B. What minority religions are represented? Are they attended to in terms of chaplaincy visits, places of worship and diet? How often do chaplains visit? What other support services do they provide? Are they in contact with the prisoners' families?

4.5.8 Preparation for Release

The process of preparation for release and resettlement begins in prison and continues after release with a need for continuity of assistance spanning this period. This requires close liaison between social agencies and services, as well as relevant community organisations and prison administrations during sentence. In addition, there needs to be a programme of assistance to prepare for release close to the date of release (often starting one month prior to the release date), to ensure that the social, psychological and medical support needs of the offender are met and continue uninterrupted after prison. During this period probation services, if they exist, have an active role to play in assisting with prisoner' transition from prison to life outside.

Please see also **CUSTODIAL AND NON-CUSTODIAL MEASURES: SOCIAL REINTEGRATION, SECTION 6.5, Temporary Release Dispositions; SECTION 6.6, Open Prisons; and SECTION 6.7, Halfway Houses.**

- A. Does legislation put an obligation on prison authorities to prepare prisoners for release? To what extent is preparation for release integrated into the individualized assessment and sentence management system?
- B. When do preparations start? What does this assistance consist of? Does it include practical assistance with finding accommodation and employment? To what extent do prison authorities try to ensure that prisoners' documents are in order before they leave prison? Are prisoners given enough money on release to at least take them to their destination?
- C. What efforts are made to coordinate with social and health agencies of civil society during this period, to ensure that prisoners receive the necessary support on their release? Are their social and medical rights explained to prisoners before release?
- D. Do probation services assist with the preparation for release? Do probation officers come into prison and meet with offenders prior to release to determine their support needs?
- E. Are there NGOs working to assist with prisoners' preparation for release? Are prison administrations encouraged to cooperate with them? Examples?
- F. What special measures are taken to prepare for the release of long-term prisoners, whose support structures in the community may have broken down during their imprisonment? What kind of assistance is provided with their particular psychological and social needs? Are they given a chance to prepare gradually, with the help of temporary or conditional release measures and with adequate social and psychological support in the community?

4.6 SAFETY AND SECURITY

Security refers to the obligation of the prison service to prevent prisoners from escaping. **Safety** refers to the requirement to maintain good order and control in prison to prevent prisoners being disruptive and to protect the vulnerable. Safety measures in prisons should be supported by a **disciplinary system** that is fair and just.

Conventional means of security include walls, bars, locks, keys, gates, movement detectors, other technological devices and perimeter sterile areas.

Security and safety procedures include proper categorisation and assessment, searching and standing operation procedures.

The proper classification of prisoners based on risk assessment is one of the most important steps prison managers must take to ensure safety and security in their prisons. The security measures to which prisoners are subject should be the minimum necessary to achieve their secure custody.⁷ This will enable prison staff to supervise more efficiently the smaller number of prisoners who pose a real danger to others; it will ensure that the prison environment is as humane as possible and that finances are not allocated unnecessarily to ensure highly secure conditions for a large number of prisoners.

It is now generally acknowledged, that safety and security in prisons depend on creating a positive climate which encourages the cooperation of prisoners. External security (preventing escapes) and internal safety (preventing disorder) are best ensured by building positive relationships between prisoners and staff. This is the essence of what is referred to as “**dynamic security**”. (See ‘**Human Rights in Prisons, A Manual on Human Rights Training for Prison Officials, UN Office of the High Commissioner for Human Rights**, p. 53 and European Prison Rules (2006), 51.2)

Dynamic Security refers to the interaction between staff and prisoners, with staff developing a situational awareness enabling them to prevent escapes and disruption before they are attempted.

The concept of dynamic security includes:

- Developing positive relationships with prisoners
- Diverting prisoners' energy into constructive work and activity
- Providing a decent and balanced regime with individualised programmes for prisoners

Good conduct and cooperation can also be encouraged with a system of privileges appropriate for different classes of prisoners.

4.6.1 Security Measures

- A. Is prison security considered to be adequate? How many escapes were recorded nationwide during the last 2 years?
- B. Are sentenced prisoners classified according to the risk they pose to society and others in prison? Is care taken that the security conditions imposed on prisoners are the minimum necessary? If so, is this principle included in regulations and/or standing orders, or are staff responsible for assessment and categorisation directed to act on this principle?
- C. Are security levels reviewed at regular intervals? How often? Does the review include those sentenced to life? Who is responsible for undertaking the review?
- D. What physical means of security are used, e.g. such as walls, bars, movement detectors, other technological devices? How do these measures vary according to the category of prison?
- E. Is the concept of dynamic security known to prison managers and staff? Is the subject of dynamic security included in the training curriculum of staff? If so, to what extent do they put it into practice, e.g. is a positive relationship between staff and prisoners evident? Are there adequate activities in prisons?

- F. How often and under what circumstances are searches of cells/dormitories and prisoners conducted? What do search procedures consist of?

Search procedures should set out the circumstances when searches should be carried out, methods and frequency. Procedures and circumstances when body searches can be undertaken should be explicit, as body searches can be experienced as degrading and can be used as a form of punishment. During personal body searches prisoners should not be humiliated; they should be searched by staff of the same gender and security staff should not carry out intimate searches. When body cavity searches have to be carried out, they should be undertaken by a physician other than the doctor who provides medical care for prisoners, as the physician's position should not be compromised by an obligation to participate in the prison's security system. See **Statement on Body Searches of Prisoners, World Medical Association, 1993.**

- G. Are visitors searched? How are they searched? Are they searched by security personnel of the same gender?
- H. Is mail censored? What does the procedure entail, i.e. is somebody or a committee responsible for reading all incoming and outgoing mail, or is only the mail of selected prisoners read?
- I. Are telephone calls monitored? What does monitoring entail? Do staff listen to all telephone conversations? Do they record all or some of them?
- J. Are any forms of restraints used in prison and if so, what are they and under what circumstances are they used? Who, if anyone, must authorise their use? What are the rules and what happens in practice? Please see SMR, 33 and 34.
- K. Is an informant system in place from among prisoners? Please see **SMR, 28 (1).**

Prisoners should not be used to pass on information on other prisoners to the prison administration. If an informant is discovered he or she can become the victim of violent reaction by other prisoners, further informants can give unreliable information due to personal disputes or to exercise control over other prisoners. The very existence of a system of informants will generate a climate of tension and violence. Thus the principles of dynamic security should never be confused with an informant system. The former is based on staff getting to know prisoners as individuals, which will lead to much more trustworthy assessments of security risks.

- L. Are some prisoners put in a position of authority over others? How are they chosen? What are their powers? Similarly, this practice is fraught with risks and dangers, but in some prison systems it is a method frequently used due to staff shortages.
- M. Are weapons carried by staff? Inside prison and outside prison? What are the standing orders governing their use?

Staff who work directly with prisoners may carry sticks or batons, for self-defence. It is not good practice, however, to carry these weapons in a visible manner. In some prison systems staff guarding the perimeter of the prison carry firearms. They should have clear instructions about the circumstances in which these weapons may be used, which must only be when there is immediate threat to someone's life. It is not acceptable to shoot a prisoner solely on the basis that he or she is escaping. (Please see **Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principle 16.**)

- N. Have there been any serious incidents, riots, or hunger strikes over the past 3 years? How were they dealt with? What details were recorded about such incidents? Were investigative reports written? Did they make recommendations for changes to prevent future incidents?

These questions will give an indication of the level of dissatisfaction and unrest in the system, as well as the position of political prisoners, if incidents and hunger strikes involve them. It will also help assess the management style of the prison authorities.

In the event of a hunger strike, public authorities or professional organisations in some countries will require the doctor to intervene to prevent death as soon as the patient's consciousness becomes seriously impaired. In other countries, the rule is to leave clinical decisions to the doctor in charge, after he has sought advice and weighed up all the relevant facts. According to the **World Medical Association Guidelines**, the decision on intervention or non-intervention should be left with the individual doctor, without external interference. (**Declaration of Malta on Hunger Strikers, World Medical Association, 1991, 1992**)

4.6.2 Discipline and Punishment

- A. What are the standing orders for dealing with disruptive or difficult prisoners? How are such prisoners dealt with in practice?
- B. What are the punishments applied for the various types of offence? Is there statistical data giving the types and numbers of disciplinary punishments applied nationwide for the past 3 years? If so, have punishments increased or decreased over this period? If national statistics are not available, try to obtain this information from prisons visited. The trend in the usage of disciplinary measures and the types of punishments applied, will give an indication of the style of management and the way it may have changed over time.
- C. Are the rules of natural justice followed when a person is charged with a disciplinary proceeding, i.e. is the prisoner told in advance the nature of the charge and provided with time to prepare a defence; is the hearing heard before a 'competent authority'; is the prisoner present at the hearing? Is the prisoner able to question the staff member and present his or her side of the case? What procedures are in place to examine the case before a punishment is applied? **SMR, 30(2)**
- D. Can prisoners complain against disciplinary punishments to an independent authority? Please see also **Section 4.7, Complaints Procedures**.
- E. Are prisoners ever punished by being placed in dark cells? Is corporal punishment ever applied? **SMR, 31**
- F. How often are segregation units/punishment cells used? How does this compare with usage in the previous 2-3 years? This can be checked with the administration of prisons visited, which should have a record of all cases. The central prison administration may have a record of all cases nationwide.
- G. How are the conditions in segregation units/punishment cells? Do prisoners have access to natural and artificial light? Can the prisoner(s) regulate the artificial lighting? Do the cells contain a bed (or beds)? Are prisoners given a mattress and other bedding at night? Is there an alarm button inside the cell? Is there a window that can be opened from inside the cell? Are there sanitary facilities?
- H. Are prisoners who have been placed in segregation units allowed an hour of exercise each day? **SMR, 21(1)**. The right to one hour of outdoor exercise per day applies to all prisoners, including those in segregation units.
- I. What are the maximum periods that prisoners may spend in punishment cells? Are there different types of cells for different lengths of punishment?
- In some systems, there are short- and long-term punishment cells, the former used for punishments of a few days (sometimes up to 15 days), the latter of up to a few months. Conditions in both, but particularly in long-term punishment cells, should be suitable for prolonged occupancy.
- J. Does a system of privileges exist? What provisions does it include? In what circumstances can these privileges be taken away?

4.7 COMPLAINTS PROCEDURES

Most prison legislation provide for a set of written procedures that allow prisoners to register any complaints they have regarding their treatment in prison. Prisoners should be given written information about the complaints procedure, prison rules and regulations, as part of an information pack on entry to prison (**SMR, 35 (1)**). These procedures should be clearly laid out in a way that can be understood both by prisoners and by the staff who deal directly with the prisoners.

There also needs to be a procedure by which prisoners can make confidential written complaints to a person or institution independent of the prison administration such as a prison ombudsman, a judge or magistrate, when they feel that the prison administration is failing to respond to their complaints or when they are complaining against a disciplinary decision (**SMR, 36 (3)**)

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

- A. Is there a working complaints mechanism in the prison, by which prisoners can make written complaints to the prison administration about their treatment? What does it consist of?
- B. What is the average time between a complaint being made and the matter being resolved? **SMR, 36 (4)**
- C. Are complaints mechanisms often used? Why not?
- D. Is there a perception by prisoners that those who use them are subsequently victimized by staff? Are there examples of such incidents?
- E. What are the most frequent prisoner complaints?
- F. Is there a complaints mechanism that ensures that prisoners can complain about their treatment and disciplinary procedures in prisons to an independent body? What are the procedures and who can prisoners complain to, e.g. a judge, a prosecutor, a prisons ombudsman, human rights commission etc.?
- G. Are complaints to independent authorities confidential by law? What happens in practice? What measures are taken to ensure that prisoners' letters to independent bodies are not censored?
- H. Do prisoners often complain to independent authorities? What do they complain about most frequently?

5. SPECIAL CATEGORIES

5.1 JUVENILES

While a child is a human being under the age of 18, internationally, the term juvenile is used for those children under the age of 18 over whom a court may assume criminal jurisdiction, although this age can differ under different national statutory schemes (**Convention on the Rights of the Child, Article 1, UN Rules for the Protection of Juveniles Deprived of their Liberty, Rule 11**). Children below a certain age, often ranging from 7 to 12, may also be excluded from juvenile criminal jurisdiction, though this is also not uniform in application. The **Model Criminal Code (MCC) (Draft, 31 March 2006) Article 1(5)** defines a juvenile as a child between the ages of 12 and 18.1

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

Many jurisdictions have special separate custodial institutions for juveniles and for young adults (age: 18-21 years), where semi-institutional arrangements may apply.

Please also see **CROSS-CUTTING ISSUES: JUVENILE JUSTICE** for guidance on special legal requirements for juveniles; **CUSTODIAL AND NON-CUSTODIAL MEASURES TOOLS: ALTERNATIVES TO INCARCERATION, Section 3.5.1** and **SOCIAL REINTEGRATION, Section 8.2** for a full coverage of appropriate ways of dealing with children in conflict with the law; and **CUSTODIAL AND NON-CUSTODIAL MEASURES: DETENTION PRIOR TO ADJUDICATION, Section 5.1**, for guidance relating to the treatment of juveniles in pre-trial detention facilities.

- A. What special provisions relate to this vulnerable category of offender – e.g.:
- Is there special legislation enacted in line with the UN Convention on the Rights of the Child that puts the best interests of the child first?
- Please see **MCC (DRAFT, 31 March 2006), Section 13**, and the **Model Code of Criminal Procedure (DRAFT, 30 May 2006), Chapter 15**, for a model of juvenile statutes and dispositions that integrate the standards of the **Convention on the Rights of the Child**.
- Are there special procedures which apply to young people (i.e. juvenile or children’s courts)?
 - Are those charged with implementing such procedures adequately trained?
 - Is there a special body in charge of monitoring juvenile justice?
- B. What is the age of criminal liability in the country assessed? What is the minimum age for imprisonment?
- C. How is age determined and who is responsible for determining age if the birth certificate of a young suspect is missing? Is this a common problem?
- D. Are there juvenile or children’s courts? Are juveniles always/sometimes/rarely tried at these courts? On what basis?
- E. Are juveniles housed in separate institutions to those of adult prisoners? If not, are they housed in separate wings of adult prisons, with separate staff? Are juveniles also separated according to age group? What are the age groups?

- F. Are there special prison facilities for juveniles? How do they differ from prisons holding adult prisoners? Are the rules less strict? For example, can juveniles leave the institution/prison for educational purposes?
- G. Are juveniles provided with special care in prison? What does this care consist of? Are there any psychologists and social workers in juvenile prisons visited? What are their responsibilities? Are there therapy or counselling programmes catering for the special needs of the age group?
- H. To what extent are their educational needs met? To what extent are they given access to the education curriculum available for their age group outside of prison/detention? Are they assisted by teachers in their education? Please see **Beijing Rules, 26.1 and 26.2.**
- I. Are juveniles given vocational training? What are the most common areas of training provided? How many juveniles in prisons visited benefit from vocational training courses?
- J. What are the rules governing visits from their family and/or guardians? Are the rules any different to those applied to adult prisoners? Are the visits open or closed?
- Please see **Beijing Rules, 26.5.** Contact with the family is regarded as a key element in juveniles' rehabilitation. In some jurisdictions, regulations prohibit restricting contact with the family as a disciplinary punishment.
- K. How are female juveniles treated? Are they held separately? Do they enjoy all the rights that are granted to male juvenile detainees?
- L. Who is allowed to visit prison/young offender institutions in official and unofficial capacities? How often must they visit? How often do they visit in practice? Who do they report to? Please see also **Section 6.7.**
- M. Are records of juvenile offenders kept confidential? Who has access to their records? Please see **Beijing Rules, 21.1.**

5.2 WOMEN

The percentage of women in prison worldwide, including in pre-trial detention is very small (between 2% and 9%, exceptionally above 10%).⁸ Since the vast majority of prisoners are men, the special needs of women are usually not taken into account, which means in practice they are discriminated against. In the closed environment of the prison women are especially vulnerable to abuse from both staff and prisoners.

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

All rules in **SMR** apply to women. In addition, women have special needs that need to be addressed.

Please see also **CUSTODIAL AND NON-CUSTODIAL MEASURES: DETENTION PRIOR TO ADJUDICATION** for guidance on to pre-trial women prisoners; **CUSTODIAL AND NON-CUSTODIAL MEASURES: ALTERNATIVES TO INCARCERATION** for the use of community sanctions and measures for women.

- A. Are women separated from men? **SMR 8(a)**. Are women prisoners supervised exclusively by female staff – always/sometimes/rarely? **SMR 53(3)**. How does practice vary geographically?
- B. Do they have the same access as male detainees to all available activities? If not, what level of access do they have? What activities are they offered?
Often the type or work or vocational training offered to women may be discriminatory – e.g. women may only be offered work considered to be suitable for their gender, such as sewing.
- C. What are the visiting rules, especially by their family and children? Are the visits open or closed? What happens in practice?
- D. Are any efforts made to re-establish links with families where they have been lost?
- E. Are their particular medical needs catered for? What are the arrangements? To what extent do they have access to specialists in women’s healthcare? Do pregnant women receive adequate medical care? What are the arrangements? Are pregnant women transferred to hospital to give birth? **SMR, 23.1**; also **EPR, 28.1**
- F. Are women’s special hygienic needs met? Do they have access to sanitary towels and what are the arrangements for access? How often to pregnant women and women with infants have access to showers?
Dormitories and rooms used for accommodation of female prisoners must have facilities and materials required to meet women's special hygiene needs. Hot water should be available for the daily personal care of children and women, in particular women involved in cooking, those who are pregnant, breast feeding and menstruating. **CPT** considers ready access to sanitary and washing facilities, as well as provision of hygiene items, of particular importance. These should 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. **CPT** considers that the failure to provide such basic necessities can amount to degrading treatment.
- G. Are women allowed to keep their babies/infants with them in prison? Up to what age? What facilities are provided for the infants? Are there nurseries, mother and baby units in prison? **SMR, 23.2**. Are infants given toys? What effort, if any, is made to ensure that the child’s environment is as close as possible to life outside?
- H. Are there provisions in legislation to provide special diets for pregnant and breastfeeding women, as well as infants in prison? What do the provisions consist of and are they applied in practice?

5.3 THE MENTALLY ILL

The number of prisoners in need of psychiatric care is rising in many countries. In fact, offenders who are mentally ill should not be detained in prisons, where they can rarely receive adequate treatment for their condition and where their mental health is likely to deteriorate. Instead, they should be given specialized care and treatment in the community. (**SMR, 82**). However, often psychiatric institutions and services in the community are overburdened with patients. Therefore, psychiatric patients who have committed offences may not be admitted.. In addition, many prisoners may develop mental and psychiatric conditions as a result of imprisonment itself and being cut off from their families. Mental problems arise and may become chronic in prisons with overcrowding and few activities, forcing prisoners to spend most of their time in their cells. If there is not a proper differentiation of prisoners according to risk levels; prisoner subcultures may have developed so that dominant hierarchies exist. This may affect the mental health of the vulnerable considerably, while increasing the risk of abuse mentally ill prisoners face from other prisoners. Measures must be taken by prison authorities to prevent such abuse, such as separation of the mentally ill from other prisoners and supervision.

International instruments stress the importance of prisoners’ access to psychiatric consultation and counselling. Staff members need to be alert to the symptoms of mental disturbance, and prison health services need to provide psychiatric assessments, psychiatric services and outpatient treatment. Please refer to **UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Healthcare, 1991**

- A. Are there large numbers of mentally ill prisoners in prisons visited? What percentage of the total prison population?
- B. On what basis have they been diagnosed as mentally ill? For example, does the initial medical examination on admission to prison include an assessment of prisoners' mental health? Is this standard practice? **SMR, 66.2**. Is there evidence/a medical diagnosis that some of them have developed mental illness during imprisonment? How many?
- C. To what extent does the prison medical service provide for the psychiatric treatment of prisoners? **SMR, 82 (4)**. Is such treatment provided by specialists from civil healthcare services or by a prison psychiatrist? What does treatment consist of?
- D. Are there specialised prisons or sections of prisons under medical supervision for the observation and treatment of prisoners suffering from mental disorder? **SMR, 82(4)** provides for observation by a medical doctor; **EPR, 47.1** recommends that specialised prisons or sections of prisons should also be available. Are there sufficient medical specialists to provide adequate care to persons held in such places? To what extent are the mentally ill isolated/left alone? How much care do they receive in practice?
- E. Are prisoners with serious psychiatric conditions transferred to appropriate civil healthcare facilities for treatment? How often does this happen in the prisons visited? Annually?
- F. If prison conditions and resources do not allow for 4 and 5 above, what measures are taken to protect the mentally ill from violence and abuse?
- G. What, if any, measures are taken to ensure the continuation of psychiatric treatment after release? **SMR, 83**.

5.4 OVERREPRESENTED GROUPS

In some countries ethnic, racial and indigenous minorities, as well as foreign nationals are significantly overrepresented in the criminal statistics and also in the prisons. For further discussion inquiry into the reasons of overrepresentation please see **CUSTODIAL AND NON-CUSTODIAL MEASURES: DETENTION PRIOR TO ADJUDICATION, SECTION 5.5; ALTERNATIVES TO INCARCERATION, SECTION 3.5.5**. This section guides assessors in their inquiries about the rights and treatment of overrepresented groups in prison.

All rights set out in **SMR** apply also to these groups. In addition they have specific needs relating to language, contact with families, consular and UNHCR representatives, as well as religion and diet, which need to be addressed from the outset of their imprisonment.

Foreign nationals and members of minority groups who do not speak the language commonly spoken in the prison will feel their isolation more acutely than other prisoners, and especially when this situation is accompanied by no or limited contact with families. It is essential, therefore, to provide such offenders with interpretation services whenever necessary and to ensure that they receive all rules and regulations relating to their imprisonment, in a language that they can understand. They must be informed, immediately, of their right to communicate with the diplomatic or consular representative of their state. If they are stateless persons or refugees, they should be allowed contact with the diplomatic representative of the state that takes charge of their interests or the national or international authority whose task it is to serve the interests of such persons, such as UNHCR. (**SMR 38 (1) and (2)**). Prisoners who are foreign nationals should be informed of the possibility of requesting that the execution of their sentence be transferred to another country. **EPR, 37.5**

Minority groups, even if they are overrepresented in the population, may feel isolated also due to different cultural and religious habits, in addition to possible discrimination against them.

In practice, despite legislation prohibiting discrimination in most countries, minority groups and foreign nationals are often discriminated against in the closed and coercive environment of prisons, which can lead to violence against such groups by other prisoners and their harsher treatment by prison staff. Therefore, it is important to provide careful supervision within the prison to prevent and remedy such behaviour; to separately house members of groups who are at risk in the general population; and to ensure that the training

of prison staff seeks to improve understanding of the difficulties and cultural backgrounds of foreign prisoners and minority groups, so as to prevent prejudiced attitudes from perpetuating.

Consultation with representatives of minority groups on a formal basis during the formulation of policies against racial or ethnic discrimination, and preparation of regulations reflecting such policies, may be useful to ensure that account is taken of the specific concerns and recommendations of minority groups in the prison environment.

See **CUSTODIAL AND NON-CUSTODIAL MEASURES: ALTERNATIVES TO INCARCERATION, SECTION 3.5.5** and **SOCIAL REINTEGRATION, SECTION 8.6** for guidance on the situation of overrepresented groups in the context of alternatives to prison and their special social reintegration needs.

- A. In prisons visited, what is the percentage of foreign nationals and members of minority groups? What are the most common offences of which they have been convicted?
- B. Are foreign nationals and minority groups given information about their rights, obligations, rules and regulations relating to their imprisonment in a language they understand as soon as they are admitted to prison? Is this standard practice? It would be useful to verify that samples of such written information exist in the prisons visited and to obtain a copy, if copies are available.
- C. Are foreigners informed of their right to request contact and allowed facilities to communicate with the diplomatic or consular representative of their state? What are the legislative provisions and what happens in practice? How often can foreign prisoners receive visits from consular officials of their state?
- D. Are prisoners who are nationals of states without diplomatic representation in the country, and refugees or stateless persons, allowed facilities to communicate with the diplomatic representative of the state that takes charge of their interests or the authority whose task it is to serve the interests of such persons, e.g. UNHCR? **SMR, 38 (2), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 16.2**. What does the legislation provide for and what happens in practice?
- E. Are prisoners who are foreign nationals informed of the possibility of requesting that the execution of their sentence be transferred to another country?
- F. In prisons visited what level of access do foreigners and minority groups have to the activities in the institution? Are they provided with reading material in a language that they understand? (Check the library). Do they have the same access as the other prisoners to education? Are they ever given work in the kitchen or library? These are valued jobs and the under-representation or exclusion of minority groups and foreign nationals from them will give an indication of any discrimination against them.
- G. To what extent, if at all, are they provided with an opportunity to learn the language most commonly spoken in the prison?
- H. Is effort made for members of such groups to work and spend their leisure time together, to alleviate feelings of isolation?
- I. Is any special provision made for contacts with their families, if their families are in another country? What are they? Are they for example allowed more telephone calls, due to lack of visits from their families? Are visiting times extended, when they can take place? Are restrictions on sending and receiving letters more flexible?
- J. Does the law provide for meeting the special cultural and religious needs of members of minority religious groups in prison? What opportunities are provided and what happens in practice? Can they meet with ministers of their religion? Are their special dietary needs catered for? If so, is this standards practice?

- K. In prisons visited, what is the percentage of disciplinary action taken against members of (a) minority groups and (b) foreign nationals? Overrepresentation of these groups in disciplinary actions may indicate discrimination by the prison administration, but should be further investigated.
- L. Compare the quality of housing of minority groups and foreign nationals to that of other prisoners. Is there a difference?

5.5 LIFE-SENTENCED AND LONG-TERM PRISONERS

The number of long-term prisoners is rising in many countries worldwide, for two reasons: a change in sentencing policies, with a trend towards harsher sentences, and the abolition of the death penalty in an increasing number of countries.

In countries that have abolished the death penalty, offenders who may previously have been sentenced to death receive a sentence of up to 25 years and in some countries, life sentences. In many countries at least part of this sentence is spent in solitary confinement and in most cases such prisoners are subjected to a particularly restricted regime for their whole prison term. Sometimes special prisons are established to house such prisoners. There is no justification for all life and long-term prisoners to be subjected to high security conditions, with restricted regimes, and especially to solitary confinement, which can have an extremely harmful effect on the prisoner. Solitary confinement can, in certain circumstances, amount to inhuman and degrading treatment, and all forms of solitary confinement should be as short as possible. The allocation of long-term and life-sentence prisoners should be based on a proper risk assessment at the beginning of their sentence and not on the crime that they have committed.

Long-term imprisonment can have a number of de-socialising effects upon prisoners. In addition to becoming institutionalised, long-term prisoners may experience a range of psychological problems (including loss of self-esteem and impairment of social skills) and have a tendency to become increasingly detached from society - to which almost all of them will eventually return. Regimes that are offered to prisoners serving long sentences should seek to compensate for these effects in a positive and proactive manner. The UN recommends that states should provide life sentence prisoners with "opportunities for communication and social interaction" and "opportunities for work with remuneration, study, and religious, cultural, sports, and other leisure activities". (**UN Recommendations on Life Imprisonment, 1994**).

- A. Is there a definition of a long-term prison sentence in the country assessed? Who is classified as a long-term prisoner? This definition can vary from country to country, with vast differences.
- B. Where are long-term prisoners held? Are they all held in high-security prisons? Are they held in medium security prisons, but separated according to regime (e.g. housed in "strict regime" conditions).
- C. Where are life-sentence prisoners held? The same follow-up questions as in B. above are appropriate here.
- D. Do life-sentence prisoners spend any of their sentences in solitary confinement? For how long?
- E. To what extent does the accommodation, treatment, and regime of long-term and life-sentence prisoners differ from others? Are they given the same access as other prisoners to activities in prison? Do they enjoy the same rights as others to contact their families and relatives? If not, how do their rights differ?
- F. Are regular reviews of sentences undertaken for both categories? How often?
- The Council of Europe recommends that the cases of all prisoners (including long-term and life-sentenced prisoners) should be examined as early as possible to determine whether or not a conditional release can be granted and a review of life sentence should take place, "if not done before, after eight to fourteen years of detention and be repeated at regular intervals".⁹⁾
- G. Do long-term and life-sentence prisoners have access to psychologists and psychiatrists? To what extent?

- H. What arrangements are made for long-term prisoners who are about to be released, e.g. are they transferred to a semi-open establishment months prior to their release? Is there a special pre-release programme? What role do probation services play?

5.6 PRISONERS UNDER SENTENCE OF DEATH

An increasing number of countries are abolishing the death penalty or imposing moratoriums on executions, pending a decision on abolition. In countries that still retain the death penalty, prisoners sentenced to death may spend many years in prison, awaiting the result of their appeals. If a moratorium is in place, prisoners will be held in prison until a decision is taken on abolition, which may result in the commutation of all death sentences. In most countries, prisoners on death row are segregated from others and held in some form of solitary confinement, often in extremely inadequate conditions. As with long-term and life-sentence prisoners, there is no justification to detain death row prisoners in prolonged solitary confinement or to segregate them as a matter of routine. They should be assessed as all other prisoners and accommodated according to the risk they pose to others, with access to activities in prisons, in line with their classification. **The UN Economic and Social Council Resolution 1996/15** “[u]rges Member States in which the death penalty may be carried out to effectively apply the Standard Minimum Rules for the Treatment of Prisoners, in order to keep to a minimum the suffering of prisoners under sentence of death and to avoid any exacerbation of such suffering”. (**Article 7**).

For prisoners sentenced to death, immediate and regular access to legal counsel is a matter of high priority and urgency. They should have a right to mandatory appeal to seek pardon or commutation, and access to information necessary to facilitate such actions.

International instruments call for the abolition of the death penalty, e.g. **Second Optional Protocol to the International Covenant on Civil and Political Rights, Article 1**. However, where the death penalty still exists, they mandate that “capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences...” and that “[p]ersons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane.”. (**UN Safeguards guaranteeing protection of the rights of those facing the death penalty, Articles 1 and 3**). Legal safeguards for those who have been sentenced to death are set out in the **UN Safeguards guaranteeing protection of the rights of those facing the death penalty**. See also **UN Economic and Social Council Resolution 1996/15, dated 23 July 1996**).

- A. Where and how are prisoners under sentence of death accommodated? To what extent are they segregated from others? Are they held in solitary confinement? Is a risk assessment undertaken to determine the conditions to which they will be allocated or are they routinely segregated?
- B. Do they have sufficient access to lawyers? Are they given the facilities necessary to prepare an appeal against sentence, as well as for petitions of clemency? If they cannot afford a lawyer, is legal aid provided? Are they given sufficient assistance to obtain legal aid?
- C. What access do they have to the facilities of the prison? What is their daily regime? Do they receive the same treatment as other prisoners, including the same standard of living conditions, access to healthcare, food, exercise, association with other prisoners?
- D. To what extent are they allowed contact with family and friends? What arrangements are made to notify the prisoner’s family of the date and time of execution and for final contact with their families?
- E. Are staff entrusted with the supervision of prisoners sentenced to death specially selected and trained? What does the training include?

6. MANAGEMENT SYSTEM

In democratic countries, prison administrations are generally public authorities, within the jurisdiction of a government ministry. In most European countries, the ministry responsible for prisons is the Ministry of Justice. In others, the Ministry of Interior may be responsible for the prison system or only for the administration of pre-trial detention facilities. Exceptionally there may be a separate department responsible for managing prisons. It is accepted good practice to have the prison administration, including pre-trial detention facilities, placed under the jurisdiction of the Ministry of Justice. The Council of Europe recommends to all accession states, that where this is not the case, a transfer of the prison service from the Ministry of Interior to the Ministry of Justice takes place. This step is important because, it reflects the principle of separating the authority of agencies that have responsibility for investigating charges and those that are responsible for the management of prisons. Secondly, in countries where the Ministry of Interior is a military authority (e.g. many post-communist states), it provides for the prison service to be under a civil rather than military authority.

Prison systems are organised in vastly varying ways. Some countries have a number of prison systems in operation, independent from one another to varying degrees, e.g. federal system, state prison system, county and district prisons systems. Most, however, have a prison system that is organised nationally, with the central prison administration having full authority over the regional and local administrative departments. The disadvantage of the former system is that it restricts possibilities for a clear mission statement, setting standards in prison management in the whole country, and introducing mechanisms to ensure that these standards are implemented nationwide. The strict hierarchy inherent in the latter reduces the opportunities for regional and local managers to use individual initiatives (which can include avoiding the risk of implementing new and innovative prison reform programmes). It has been suggested that the systems that organise themselves most successfully are those that have clear national policies that ensure that international and national standards will be adhered to nationwide, but which then allow regional or local management to implement the agreed standards in a flexible manner.¹⁰

This section seeks to provide guidance into the management system of the prison service, particularly in relation to the management of prison facilities housing sentenced prisoners. Assessors may wish also to refer to **CUSTODIAL AND NON-CUSTODIAL MEASURES: DETENTION PRIOR TO ADJUDICATION, SECTION 6**, for an inquiry into the management of pre-trial detention facilities, which in some countries may be under a different management authority.

6.1 MANAGEMENT AUTHORITY AND STRUCTURE

- A. Which authority/ministry is responsible for the management of the prison service?
- B. Is it a military organisation, i.e. does staff have military ranks and matching privileges? Are prisons run by the police?
- C. If the service is within the Ministry of Interior and militarised, is consideration being given to transferring management to the jurisdiction of the Ministry of Justice and to demilitarise it? If so, at what stage is the transfer process? If not, is the Ministry of Interior/prison authority prepared to discuss transfer?
- D. What are the obstacles to transfer, e.g. lower status under the Ministry of Justice, lower salaries, loss of military privileges, smaller budget in general etc.? Are there any plans to resolve these issues? What are they?
- E. If an organizational chart of the prison department exists, it would be helpful to determine the different levels of departments/services within the prison system. What services exist and what do their responsibilities cover?
- F. Is the system centralised or decentralised? How much autonomy do the regional and local prison administrations have? What issues does this autonomy cover?
- G. Has there been any recent management changes/restructuring? What changes were introduced?

6.2 BUDGET

- A. How is the management of prisons funded? What is the budgetary process under the law?
- B. Who is involved in planning the initial budget? Who prepares and submits the operating budget? Are individual prison administrations involved in budget planning? To what extent?
- C. Under the law, who manages the budget? Who oversees its spending?
- D. Over the last 3 years, what was the budget requested by the relevant management authority/ministry from the government for the management of prisons? What was actually agreed? Has the budget increased over the past 3 years? To what extent?
- E. Did the prison service receive the funds allocated in its budget over the past 3 years? Are there normally delays, fiscal constraints or other obstacles to gaining access to these funds? Where are the funds held? Who authorizes their disbursement?
- F. How is the budget distributed geographically? Are there disparities in allocation of funds? If so, why?
- G. What expenditure does the budget cover? It would be helpful to see a recent financial report or budget – both a central one and for an individual prison. What percentage of the budget funds staff salaries? What percentage is the prison ration (food service)? What percentage is dedicated to healthcare? What percentage for improvement of living conditions?
- H. What industries are in place? What profits do they make in a financial year? What happens to the profits? Are prisons allowed to reinvest the profits from these industries?
- I. Is prison land available for agricultural purposes? How much is farmed?
 - Hectare/acreage?
 - Production figures?
 - Budget?
- J. What contribution does the land make to the ration (food service)? What happens to the profits?
- K. Who oversees the receiving and paying out of money? Are proper records kept? Is there an internal audit process? Who performs that function? Is there an independent audit process? Who undertakes it?
- L. Have there been any recent incidents of theft or fraud relating to such money? If so, how were they dealt with?
- M. Is corruption in the system perceived as a widespread problem? If so, what measures, if any, been taken to tackle the problem? What do the most common corrupt practices consist of? Please see also **Section 6.6**.

6.3 PROCUREMENT

- A. How is procurement organised? Who is responsible for procurement? Is it centralised or decentralised? Partly/wholly? How does the system work, especially for food and medication?
- B. Are there often delays in procurement? What are the reasons?
- C. If centralised, how is distribution organised? What does transport consist of? Are there problems with transport? Are there sufficient vehicles for transport? What are the main challenges?
- D. If decentralised, what kinds of problems, if any, does this lead to, e.g. geographical disparities, decreased accountability of regional and local authorities, corruption etc.? What kinds of advantages does it have, e.g. saves time on procurement and distribution, reduced transport costs, etc.?
- E. Is procurement formalised? Is it based on competitive bidding? Is the bidding process transparent? Is there integrity of process? Are there allegations of favouritism, profiteering, or corruption in the procurement of goods and services? Are there any plans to improve the procurement and distribution process? What are they?

6.4 PERSONNEL

Adequate and well-trained personnel are essential for the efficient management of any organisation. They are fundamental to good management in prisons. Prison management is about the management of people – from the very vulnerable to the very dangerous. Personnel responsible for the daily administration of prisons, and daily contact with a group of persons with diverse problems and requirements, need to have very special skills and training, to ensure that security and safety is provided, while prisoners are treated humanely and cared for according to their individual needs. (Please see **SMR, Rules 46-53; Code of Conduct for Law Enforcement Officials, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials** for guidance).

Unfortunately, however, the status of prison staff is very low in most countries. Little attention is given to their proper recruitment and training. A large majority will not have sought a career in the prison service in particular, e.g. they might be former military personnel, people who have been unable to find other employment, etc. Their salaries are normally quite inadequate, which contributes to dissatisfaction and corrupt practices. If the prison service is within the Ministry of Interior, however, and have military status, then they might have a range of additional privileges, as well as comparatively higher salaries. These are some of the key reasons for resistance to the transfer of the responsibility of the system from the Ministry of Interior to the Ministry of Justice. An assessor who is confronted with such a system might want to inquire into the details of staff salaries and privileges, to assess the obstacles standing in the way of a transfer to a civil authority and investigate how these obstacles may be overcome.

Looking at staff recruitment and training practices is likely to be an essential component of most assessment missions, seeking to develop prison reform programmes.

Please refer to **CUSTODIAL AND NON-CUSTODIAL MEASURES: DETENTION PRIOR TO ADJUDICATION, SECTION 6.5** for guidance on special requirement relating to prison personnel of pre-trial detention facilities.

- A. Does the prison service have an organizational chart that describes the lines of authority and staffing scheme? How are functions coordinated?
- B. Are the duties, rights, and responsibilities of each member of staff clearly defined in their contract and relevant regulations?
- C. Are staff familiar with participatory management practices? Is the management structure a hierarchical system that has little staff involvement in policy and practice development?

- D. What is the number of staff positions in prisons? What is the actual number? What percentage are women? How does the situation vary geographically?
- E. What services exist in prisons? How many staff in each service – staff positions and actual numbers? Which positions are vacant, e.g. security personnel, medical staff, psychologists, social workers etc.? How does the situation vary geographically?
- F. Is there a union that represents prison staff? Are staff allowed or required to join unions?
- G. Is there a standard and proper recruitment procedure for prison staff? If there is, what does it consist of? Are positions advertised? Posted? Where?
- Are there minimum qualifications for positions?
 - Is there transparency in the hiring process, including the use of standard questions during the interview process, rating sheets, etc.
 - Is there a policy of equal opportunity/non-discrimination? Is it posted?
 - Does the prison service have an employee manual that explains policies, procedures and responsibilities?
 - How are employees evaluated? Promoted? Disciplined? Demoted? Terminated? Is there a written procedure for each?
- H. If there is no standard and transparent procedure, who is recruited and on what basis?
- I. Is their remuneration consistent with their position? Is their salary reasonable when compared to the local cost and standards of living? Do they receive benefits other than salary as part of their compensation? It would be useful to obtain salary/pay scales - from most junior to most senior - and compare with the national minimum wage, as well as with the salaries of other law enforcement officers, such as police officers.
- J. Where minority groups are represented in the country, are they similarly represented in the prison service?
- K. What training do prison staff receive? What subjects does the curriculum include and how long does the training take? Does the training include a human rights component? Is this a separate subject or incorporated into the way in which each topic is presented?
- L. Do prison staff receive in-service training to improve their qualifications? What does this training consist of? How often can/must staff take part in in-service training?
- M. Is there specialised staff dealing with juvenile prisoners? Do they receive special training? What does their training consist of? How many such staff are there in the system? How does their availability vary geographically?
- N. Is there special training provided for dealing with/caring for the mentally ill? What does the training consist of?
- O. Are staff responsible for the supervision of long-term, life-sentence and prisoners under sentence of death specially trained? How does their training differ from others, e.g. does their training ensure deeper understanding of problems encountered by these categories of prisoners?
- P. Where are staff trained? Are there adequate training centres? Are the training centres for prison staff located in a separate building with its own administration or is the training undertaken in a military academy, police academy etc?
- Q. Who trains prison staff? Are the trainers especially qualified or trained for this task? Or are they retired prison officers, military personnel, members of the police force, etc

- R. How is staff accountability ensured? Is there an explicit disciplinary procedure, including for the use of force and ill treatment? Is this procedure made clear in prison personnel contracts and regulations? Is it enforced? Are there examples?

It would be helpful to obtain statistics relating to disciplinary measures against staff from the individual prison administrations, over the past 2-3 years to determine numbers and trend. This information may not, however, be entirely reliable in terms of assessing the extent to which discipline is enforced.

6.5 RESEARCH, PLANNING, AND POLICY FORMULATION

In order to articulate a vision, plan and budget for the future, governments and their departments often frame their priorities for the coming period in a strategy document. Prisons need to look into the future and plan staffing ratios and training needs, new buildings, income generating activities, and so on. The minimum standards they need to satisfy are set out in the **UN SMR**, which act as a guide for both government and assessor. Mechanisms for regular research into the main challenges faced by the prison system and reliable statistical data are vital to ensure that plans and policies are based on accurate factual information.

- A. Is there a clear statement of principles to guide the management of the prisons, (i.e. statement of purpose, mission statement or value statement)? How recently was it formulated? It would be helpful to obtain a copy, if available.
- B. Is there a national development plan including the penal system? What is included in the latest plan for the development of the prison system?
- C. At headquarters level, does the prison service have a department, unit, committee, working group, or other body responsible specifically for planning? What is its capacity? How does it develop its plans? Who provides information? Does it coordinate with similar units at local level? What is included in the plans? Is there a recent strategic plan? It would be helpful to obtain a copy, if available.
- D. Does the prison service have a strategy document or plan to address the main challenges in prisons, such as overcrowding, health concerns, lack of prison activities, systematically? If so, what provisions does the strategy include?
- E. Do the relevant ministry and/or prison service have a strategic plan to tackle the problem of TB and HIV in the prison system? What measures does the plan include?
- F. Has research been conducted into the reasons for overrepresentation of certain groups in prisons, e.g. income, gender, nationality, ethnicity based? What are the results? What steps, if any, have been taken based on these results?
- G. Have mechanisms been built into the criminal justice system for the collection and analysis of data and statistics relating to the use of prisons? What do these mechanisms consist of?
- H. Are regular evaluations carried out with a view to improving prison management? Are there any copies of such evaluations available? What measures have been taken on the basis of such evaluations?

6.6 CORRUPTION

Corruption is widespread in prisons, especially in low-income countries, where prison staff receive low salaries, and control mechanisms are inadequate. In many countries, prisoners can only enjoy their most fundamental rights in exchange for bribes. The rights that must be purchased can include receiving daily necessities, gaining access to a doctor, to a lawyer, obtaining a transfer to another cell or establishment, among many others. In low-income countries, where staff salaries are delayed or not paid, these may be paid by wealthy prisoners in return for privileges. In some administrations, corruption may be systemised, constituting a chain starting from the lowest rank prison staff and extending to very high levels. If corruption is institutionalised, then the humane and fair administration of prisons is severely undermined. Stronger prisoners will enjoy better living conditions and special privileges, while the rights of the weak will be neglected.

Corrupt practices among prisoners themselves are also common, with prisoners having to pay leader prisoners for anything from access to particular areas in prison, to food and even to be allocated a bed. Prisoners who are unable to pay and who are not protected by a stronger prisoner, may be subjected to physical violence, including sexual abuse.

Information about corruption in the prison system may be obtained from independent reports produced by NGOs, bar associations, human rights and inspection bodies, ex-offenders, families of offenders and ombudsmen's reports. Working conditions, staff salaries and benefits will need to be reviewed to identify some possible reasons and solutions. **(Please see Section 6.4)** If corruption is institutionalised, it will need very clear policies to be adopted at the ministry level and mechanisms built into the system to monitor the enforcement of such policies, in parallel to measures to improve the working conditions of staff.

- A. Is there a general perception among the public, offenders' families and offenders that corruption is widespread in the prison system? What must prisoners pay for most often, e.g. access to medical care, to visits, to telephone calls, to food, etc.?
- B. Does the situation vary between rural and urban and in different parts of the country?
- C. If corruption is a problem, what is its extent? Has corruption been institutionalised? Have any steps been taken by state / prison authorities/special commissions to tackle corruption? What are they? Have any inspection mechanisms been put in place? What do they consist of?
- D. Are corrupt practices widespread among prisoners? Is there a prisoner hierarchy in prisons allowing stronger prisoners to extract money from the weaker in order to allow them access to essential needs? Have these practices led to violence among prisoners?
- E. Is the prison administration taking any measures to prevent such practices, e.g. the more careful separation of prisoners, especially those which are likely to be abused by the rest; strict separation of juveniles from adult prisoners; special training for staff to be alert to and deal with such incidents effectively?
- F. Is there a prison that may have implemented effective measures against corruption, either at the prisoner or staff level? What has worked for this prison? How transferable do these practices/policies appear to be to other prisons?

6.7 OVERSIGHT: INSPECTIONS

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

Prison inspections may also be carried out by external bodies responsible for inspections in a variety of enterprises outside prisons. Such inspection may relate to sanitation, preparation of food, medical services, health and safety in prison industries, fire prevention etc. Such bodies will belong to ministries other than the ministry responsible for prisons, which helps ensure the independence and objectivity of reporting.¹¹

Inspections may also be carried out by international and regional bodies, such as the **Special Rapporteur on Torture of the UN, the Committee for the Prevention of Torture and Inhuman and Degrading Punishment of the Council of Europe (CPT), and International Committee of the Red Cross**.

Independent inspection and monitoring is a basic and essential element of ensuring human rights compliance in prison systems. External independent inspection highlights abuses, protects prison staff from unfounded criticism, strengthens the hand of staff that want to resist involvement in brutality and, if such reports are published, helps to keep the challenges of prison reform in the public eye.

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

(See **SMR, 55, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 29**).

- A. What provisions relate to internal inspection procedures of prisons? If there is more than one inspection body – what are they and what are their different responsibilities? How often do they inspect? Can and do they inspect unannounced? To whom do they report? What are the outcomes? Are their reports published?
- B. Are there independent inspection bodies with responsibility for the external scrutiny of prisons (e.g. human rights commissions, parliamentary prison inspectors etc)? What rules and procedures apply to their inspections? How often do they visit prisons? If there are a number of bodies, what are their different roles? What happens with the inspection reports? Are they made public? Do referrals to other competent authorities lead to action?
- C. Is there a lay inspection body with responsibility to monitor conditions and treatment in prisons? What is the membership? How often do they visit? Who do they report to? What action is taken, if any, in response to their reports? Do they publish their reports? (Obtain copies of such reports, if possible. If there is no regular inspection, by independent civil bodies, there may have been projects carried out, involving inspection for a specific period – inquire with NGOs).
- D. Is there provision for any other external inspections, such as by bodies of the Ministry of Health, the Ministry of Labour or Social Welfare? What are the arrangements?
- E. Do international and/or regional bodies inspect detention facilities, e.g. UN Special Rapporteur on Torture, **CPT**, etc.? Are their reports published? What are their findings?

6.8 PUBLIC OPINION AND ACCOUNTABILITY

As referred to in **Section 1**, public opinion is extremely important in the context of prisons and penal reform. Public opinion can drive politicians to adopt harsher criminal justice legislation and measures, it can prevent them from undertaking necessary reforms to reduce overcrowding in prisons, it can push them to give law enforcement agencies more powers to arrest and detain. Therefore, programmes for reform should never underestimate the crucial role public opinion and political climate plays in success or failure. SMR express this in a narrower sense, within the context of the status and duties of prison personnel: "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." (**SMR, 46 (2)**). Other UN documents, such as the **Tokyo Rules**, stress the vital place of public support and cooperation in the success of the implementation of non-custodial measure and sanctions (**Rule 18**).

An assessor seeking to identify entry points for prison reform, needs to be aware of the political climate, the existence or lack of political will to reform, the openness or otherwise of the ministry responsible for prisons and the general director of the prison service.

- A. Does the government support reform? Is there political will to reform? How is this evident?
- B. What is the political climate like in the country where assessment is taking place? Are politicians introducing harsher penal legislation in an effort to "fight against crime"? If so, what is driving these policies?
- C. Are there any efforts by the ministries responsible for detention and prisons to change public opinion in favour or against harsher legislation and measures? What kind of activities are they undertaking? Does the prison service have someone responsible for informing the media for example? Do they organise conferences and seminars?
- D. Are there any efforts by civil society, NGOs to change public opinion? In what way? What do they do? Do they organise conferences, seminars, meetings? Do they utilise the media? How?
- E. Have any public opinion surveys been carried out to find out how the public views harsher criminal justice legislation? How were the questions formulated? What were the results?
- F. What, if any, steps are being taken to address prejudices and preconceptions with regard to foreigners and minority groups?

7. PARTNERSHIPS AND COORDINATION

Prisons are the end of the line in the criminal justice process. The number of people sent to prison will fundamentally influence the quality of prison management. But prison authorities have no power over decisions taken by the criminal justice agencies involved in the process prior to imprisonment. Taking the situation in a wider context, the criminal justice agencies themselves have no power to deal with the social and economic problems of society and lack of adequate services to address problems, before problems lead to crime. It is evident, therefore, that coordination between the various criminal justice agencies, as well as between prison services and social welfare and health services in the civil sector, should be encouraged, in order to address challenges in prison reform efforts. Assessors involved in the design of programmes aiming to reform the prison system, should investigate prisons as part of a comprehensive study of the criminal justice system (as relevant to their ToR).

Where pre-trial detention facilities are located under a separate ministry to that of the prison system for sentenced prisoners, coordination is essential between the two management authorities to ensure efficiency – for example, procedures for transfer of offenders from pre-trial detention facilities to prisons, transfer of files and information, coordination in healthcare (especially TB, where uninterrupted treatment is vital), among others.

Many governments rely on support of external donor / development assistance and increasingly look to forging partnerships with responsible NGOs and civil society groups. The 'resource crunch' faced by low income countries who have to determine how to allocate the scarce funds to meet a range of competing priorities places a priority on good co-ordination between these agencies and actors.

7.1 SYSTEM COORDINATION

- A. At what level do the criminal justice agencies co-ordinate their activities – national, regional, local? What form does this take, i.e. monthly meetings or otherwise? Which criminal justice agencies take part?
- B. Is there a policy and strategic plan, for a coordinated approach to tackling problems relating to imprisonment? Who was involved in formulating it? Did the police, prosecutors, the judiciary and prison authorities participate? What are the problems addressed? What is the strategy put forwards to resolve them?
- C. Do prisons have a mechanism for raising issues with local decision makers and national policy makers? What are these mechanisms?
- D. Is there a mechanism for cooperation between the administrations (and if under separate ministries, the ministries responsible) of pre-trial detention facilities and prisons? What does this mechanism consist of and what issues does it cover, e.g. the speedy transfer of sentenced pre-trial detainees to prison facilities; rules on the transfer of prisoner files to prison facilities? Are there special rules relating to medical files to ensure they do not get lost; provisions for uninterrupted treatment for TB and HIV particularly, as well as other medical conditions?
- E. What communication mechanisms, if any, are in place between different departments and services in the prison system – both vertically and horizontally? For example, are there regular meetings between different services in each prison? Are there meetings between local and regional prison directors and headquarters staff at regular intervals?
- F. What cooperation mechanisms are in place with social services or the probation service where it exists? Is there a service responsible for preparing prisoners for release? Are probation officers of social services staff allowed ready access prisons to meet with their clients?

- G. To what extent do prison authorities cooperate with civil health services? Is there a protocol or agreement at ministerial level between the two ministries? What does this agreement include and is it applied in practice? Can and do civil health services assist with the treatment of TB and HIV patients in prisons? Do they monitor treatment? Do they provide training for prison health staff?
- H. Does the prison service have a strategy for cooperation with NGOs? What does it consist of? Is there a person or unit responsible for managing such coordination? Are there any signed partnerships protocols with selected national or international NGOs? What areas do they cover? Which NGOs?
- I. Do any civil society organizations have access to places of detention, e.g. NGOs and community based organizations (list them and the type of activity).
- J. Do prison administrations encourage partnerships with external organizations in the private sector? For example, does the prison make use of community resources in inviting in teachers, dramatists, local cultural groups etc to work alongside prisoners?

7.2 DONOR COORDINATION

- A. Who are the principal donors in this sector? What annual value is placed on their programme? Where direct budget support is supplied, identify how much has been set aside for the justice sector in general and for prisons in particular.
- B. Is the approach targeted to the institution concerned, i.e. prisons, police, prosecutor, and judiciary, and divided between donors, or sector wide, i.e. taking the criminal justice as a whole?
- C. Is this subject discussed in individual donor country action plans/or strategy papers?
- D. Does the Ministry responsible for prisons have a strategy for partnerships with donors? Are any donor/development partners actively supported in prisons?
- E. Are prisons included in any Poverty Reduction Strategy Papers?

ANNEX A. KEY DOCUMENTS

United Nations

- Universal Declaration of Human Rights 1948
- International Covenant on Civil and Political Rights 1966
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984
- Convention on the Rights of the Child 1989
- Declaration on the Protection of All Persons from Enforced Disappearance, 1992
- Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment 1988
- Standard Minimum Rules for the Treatment of Prisoners 1955
- Basic Principles on the Role of Lawyers, 1990
- Guidelines on the Role of Prosecutors, 1990
- Code of Conduct for Law Enforcement Officials, 1979
- Basic Principles on the Independence of the Judiciary, 1985
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990
- Standard Minimum Rules for Non-Custodial Measures 1990 (Tokyo Rules)
- Standard Minimum Rules for the Administration of Juvenile Justice 1985 (Beijing Rules)
- Rules for the Protection of Children Deprived of their Liberty 1990
- Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Healthcare 1991
- Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988
- Guiding Principles on Drug Demand Reduction of the General Assembly of the UN 1998
- International Convention on the Elimination of All Forms of Racial Discrimination, 1969
- Convention on the Elimination of All Forms of Discrimination Against Women, 1981
- Safeguards guaranteeing protection of the rights of those facing the death penalty
- Recommendations on Life Imprisonment, 1994

As well as:

- HIV/AIDS Prevention, Care, Treatment and Support in Prison Settings: A Framework for an Effective Response, UNODC/WHO/UNAIDS, 2006
- Human Rights and Prisons, A Manual on Human Rights Training for Prison Officials, UNOHCHR, Geneva 2000
- Reports by the UN Special Rapporteur on Torture;
- Reports by the UN Working Group on Arbitrary Detention.

Draft

- Model Code of Criminal Procedure
- Model Criminal Code

PLEASE NOTE: *The Model Code of Criminal Procedure (MCCP) and the Model Criminal Code (MCC) are being cited as models of codes that fully integrate international standards and norms. At the time of publication, the MCCP and MCC were still in DRAFT form and were being finalised. Assessors wishing to cite the MCCP and MCC with accuracy should check the following websites to determine whether the finalised Codes have been issued and to obtain the finalised text, as referenced Articles or their numbers may have been added, deleted, moved, or changed:*

<http://www.usip.org/ruleoflaw/index.html>

or http://www.nuigalway.ie/human_rights/Projects/model_codes.html.

The electronic version of the Criminal Justice Assessment Toolkit will be updated upon the issuance of the finalized codes.

Regional

- African Charter on Human and Peoples' Rights 1986
- African Charter on the Rights and Welfare of the Child 1990
- American Convention on Human Rights 1978

- The European Convention on Human Rights and Fundamental Freedoms 1953
- European Convention for the Prevention of Torture and Inhuman and Degrading Treatment and Punishment, 1989
- Council of Europe Committee of Ministers Recommendation Rec (2006) 2 on the European Prison Rules, 2006
- Council of Europe Committee of Ministers Recommendation No. R (99) 22 concerning prison overcrowding and prison population inflation, 1999
- Council of Europe Committee of Ministers Recommendation concerning the protection of the human rights and dignity of persons with mental disorder, Rec. (2004) 10.
- Council of Europe, Committee of Ministers Recommendation No. R (93) 6, Concerning Prison and Criminological Aspects of the Control of Transmissible Diseases Including AIDS Related Health Problems in Prison
- Council of Europe Committee of Ministers Resolution (76) 2 On the Treatment of Long-term Prisoners
- Council of Europe, Committee of Ministers Resolution R (84) 12 Concerning Foreign Prisoners

Other Useful Sources:

- Making Standards Work, Penal Reform International, March 2001
- Coyle, A., A Human Rights Approach to Prison Management, International Centre for Prison Studies, London, 2002, available on ICPS website.
- Coyle, A., Managing Prisons in a Time of Change, International Centre for Prison Studies, 2006, available on ICPS website.
- Reports by African Union Special Rapporteur on Conditions in Prison and Other Places of Detention;
- Reports by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)
- The Treatment of Offenders under International Law, Nigel S Rodley, Clarendon Press, Oxford, Second Edition, 1999
- Monitoring Places of Detention, A Practical Guide for NGOs. APT.
- Stern, V., A Sin Against the Future, Imprisonment in the World, 1998
- Amnesty International, Human Rights Watch, and US State Department human rights reports;

National:

- Constitution
- Criminal/Penal statutes and procedure codes
- Strategic plans for the criminal justice system, the judiciary, and the penal system
- Research and evaluation reports by independent bodies, NGOs, academicians

ANNEX B. ASSESSOR'S GUIDE / CHECKLIST

The following are designed to assist the assessor in keeping track of what topics have been covered, with what sources, and with whom.

| | TOPIC | SOURCES | CONTACTS | COMPLETED |
|-----|--|---|---|-----------|
| 2 | OVERVIEW: GENERAL STATISTICAL AND DATA | <ul style="list-style-type: none"> ▪ Ministry of Justice reports and/or Ministry of Interior reports ▪ Penal System Reports ▪ Reports by international and national prison inspection bodies ▪ Reports by Prisons Ombudsman ▪ Reports by Law Society or Bar Association ▪ NGO reports ▪ Donor reports ▪ Research reports by independent academic institutions | <ul style="list-style-type: none"> ▪ Ministry of Justice ▪ Ministry of Interior ▪ Senior Prison Service Officers ▪ Prison inspectors, human rights commission, judiciary with responsibility of prison inspections, prosecutors, monitoring boards, UN Special Rapporteur, CPT, International Committee of the Red Cross, ▪ Prisons Ombudsman ▪ Law Society or Bar Association ▪ NGOs working on criminal justice matters ▪ Donor organisations working on the criminal justice sector ▪ Academicians working on criminal justice issues | |
| 3. | LEGAL AND REGULATORY FRAMEWORK: LAW AND PRACTICE | <ul style="list-style-type: none"> ▪ The Constitution ▪ Penal/Criminal Code ▪ Penal/Criminal Procedure Code ▪ Prison Act/Criminal Executive Code/ Penal Enforcement Code ▪ Probation Act or similar ▪ Regulations to these codes and acts ▪ Prison Standing Orders ▪ Court Annual Reports ▪ Judicial Practice Directions: Circulars and Sentencing Guidelines ▪ Government policy documents ▪ National Reform Programmes ▪ Independent reports made by non-governmental organisations. ▪ Legal text books or academic research papers. <p>SITE VISITS</p> <ul style="list-style-type: none"> • statistics and information at different administrative levels and in different parts of the country (urban, rural, rich, poor) <ul style="list-style-type: none"> ▪ case examples ▪ Interviews | <ul style="list-style-type: none"> ▪ Ministry of Justice ▪ Ministry of Interior ▪ Senior and local prison service officers ▪ Senior and local probation service staff ▪ High Court Judges, other senior judges, local judges and magistrates ▪ Senior and local prosecutors ▪ Legislative offices ▪ NGOs working on criminal justice matters ▪ Bar Associations ▪ Academicians working on criminal justice issues | |
| 3.1 | LEGISLATION: OVERVIEW | See 3 above | See 3 above | |
| 3.2 | LAW REFORM | See 2 and 3 above | See 2 and 3 above | |

| | TOPIC | SOURCES | CONTACTS | COMPLETED |
|-----|--------------------------------|--|---|-----------|
| 4 | PRISON MANAGEMENT: | See 2 and 3 ▪ SITE VISITS | See 2 and 3, plus: <ul style="list-style-type: none"> • Prison staff, including specialist staff • Prisoners, where there is no risk of harm • Families of prisoners • Lawyers of prisoners • Former prisoners • Probation staff or other body responsible for assisting with preparation for release | |
| 4.1 | ADMISSION AND ASSESSMENT | See above | See above | |
| 4.2 | LIVING CONDITIONS | See above | See above | |
| 4.3 | HEALTHCARE | See above, plus: <ul style="list-style-type: none"> ▪ Health Act ▪ Regulations to the Health Act ▪ Prison Service Health Policy/Strategy Paper; ▪ Probation Service Health Policy/Strategy Paper ▪ Specific strategic plans relating to the management of TB and HIV; ▪ Specific reports, strategic plans dealing with substance addiction ▪ Medical Association reports | See above, plus: <ul style="list-style-type: none"> • Ministry of Health • Head of Prison Health Department/Unit • Senior and local prison healthcare staff • Specialists responsible for treating substance dependent prisoners • Medical Association or similar | |
| 4.4 | CONTACT WITH THE OUTSIDE WORLD | See 4, plus: <ul style="list-style-type: none"> ▪ Reports by NGOs and other community groups active in prisons | See 4, plus: <ul style="list-style-type: none"> ▪ NGOs and community groups active in prisons | |
| 4.5 | PRISON REGIME | See 4 | See 4 | |
| 4.6 | SAFETY AND SECURITY | See 4 | See 4 | |
| 4.7 | COMPLAINTS PROCEDURES | See 4 (See particularly reports by Prison Ombudsman and Inspection Reports) | See 4, plus: <ul style="list-style-type: none"> • Judge or prosecutor responsible for supervising prisons | |
| 5.1 | JUVENILES | See 4, plus: <ul style="list-style-type: none"> ▪ Juvenile Court Act or similar ▪ Juvenile Probation Act ▪ Regulations to these acts | See 2 and 3, plus <ul style="list-style-type: none"> • Juvenile courts • Prison staff in young offenders institutions • Juvenile probation staff • Former juvenile prisoners • Families of juvenile prisoners • NGOs and community groups running support programmes for juveniles in prison • Bar Associations and lawyers working on juvenile cases | |

| | TOPIC | SOURCES | CONTACTS | COMPLETED |
|-----|-----------------------------------|---|---|-----------|
| 5.2 | WOMEN | See 4 | See 4, plus: <ul style="list-style-type: none"> Prison staff of women's prisons Former prisoners NGOs and community groups running support programmes for female prisoners Bar Associations and Lawyers working on women's cases | |
| 5.3 | THE MENTALLY ILL | See 4, plus: <ul style="list-style-type: none"> Health Act Regulations to the Health Act Prison Service Health Policy/Strategy Paper; Probation Service Health Policy/Strategy Paper Medical Association Reports Psychiatrists' Association Reports | See 4, plus: <ul style="list-style-type: none"> Ministry of Health Head of Prison Health Department/Unit Health services involved in the treatment of mentally ill offenders Prison medical and psychiatric staff Families of Mentally ill prisoners NGOs Medical Associations Psychiatrists' Associations | |
| 5.4 | OVERREPRESENTED GROUPS | See 4, plus: <ul style="list-style-type: none"> Any government policy or strategy paper against discrimination Any prison circulars on combating discrimination UNHCR reports on the country assessed Reports on minority groups by NGOs and others working on minority groups' rights | See 4, plus: <ul style="list-style-type: none"> Ministry of Justice/Interior UNHCR staff Consular representatives and/or families of foreign prisoners Families of minority group prisoners Former prisoners from these groups NGOs working on minorities' rights | |
| 5.5 | LIFE-SENTENCED PRISONERS | See 4 | See 4 | |
| 5.6 | PRISONERS UNDER SENTENCE OF DEATH | See 4, plus: <ul style="list-style-type: none"> Any prison circulars, standing orders relating to prisoners under sentence of death Any special reports on the death penalty | See, 4 plus: <ul style="list-style-type: none"> Lawyers representing prisoners under sentence of death; NGOs and other groups working on the death penalty | |
| 6.1 | MANAGEMENT AUTHORITY | <ul style="list-style-type: none"> Ministry of Justice reports Ministry of Interior reports Penal System Reports Penal Code and Penal Procedure Code Prison Act and regulations Reports by international and national prison inspection bodies Reports by Prisons Ombudsman Reports by Law Society or Bar Association NGO reports Research reports by independent academic institutions <p>SITE VISITS</p> | <ul style="list-style-type: none"> Ministry of Justice Ministry of Interior Headquarters, regional and local prison service officers Prison inspectors, human rights commission, judiciary with responsibility of prison inspections, prosecutors, monitoring boards, Prisons Ombudsman Law Society or Bar Association NGOs working on criminal justice matters Academicians working on criminal justice issues | |

| | TOPIC | SOURCES | CONTACTS | COMPLETED |
|-----|--|--|---|-----------|
| 6.2 | BUDGET | See 6.1, plus: <ul style="list-style-type: none"> Government policy documents/National Reform programmes; Budget documents and financial reports of the prison service SITE visits to be used to gather information on the disbursement of funds | See 6.1, plus: <ul style="list-style-type: none"> Ministry of Finance Headquarters, regional and local prison staff responsible for finances | |
| 6.3 | PROCUREMENT | See above, plus: <ul style="list-style-type: none"> Strategic plans and reports on procurement and distribution | See above, plus: <ul style="list-style-type: none"> Headquarters, regional and local prison staff responsible for procurement and distribution | |
| 6.4 | PERSONNEL | See 6.1, plus: <ul style="list-style-type: none"> Samples of Recruitment/ Human resources/interview questions Training materials Staff terms of reference, contracts Staff ethics code Disciplinary board Policy/Procedures | See 6.1, plus: <ul style="list-style-type: none"> Staff Training Centre Prison governors Other prison staff Prisoners' families, ex-prisoners Bar Associations and lawyers representing prisoners Prison inspection bodies NGOs working in prisons | |
| 6.5 | RESEARCH AND PLANNING AND POLICY FORMULATION | <ul style="list-style-type: none"> Prison Service Mission Statement Government policy documents/National Development Plan, including the penal system Prison headquarters planning department reports/strategic plans Research reports relating to: overcrowding, TB, HIV/AIDS, vulnerable groups, use of alternatives etc). Reports/interviews: Judicial authorities Evaluations of the prison system Poverty Reduction Strategy Paper | <ul style="list-style-type: none"> Ministry of Justice Ministry of Interior Prison Service Headquarters High Court and other senior judges NGOs working on criminal justice matters Academicians and legal specialists working on criminal justice matters | |
| 6.6 | CORRUPTION | See 4, 6.3, 6.4 and 6.5 plus: <ul style="list-style-type: none"> Any internal audit reports, if available | See 4, 6.3, 6.4 and 6.5, plus: <ul style="list-style-type: none"> Former prisoners and their families; | |
| 6.7 | OVERSIGHT | <ul style="list-style-type: none"> Penal System Reports Reports by external, independent inspection bodies Reports by NGOs working on criminal justice matters Reports by independent academicians and researchers working on criminal justice Reports by regional and international inspection bodies | <ul style="list-style-type: none"> Ministry of Interior or Justice Independent inspection bodies NGOs Academicians, researchers Websites of regional and international inspection bodies (UN Special Rapporteur, CPT etc). | |
| 6.8 | PUBLIC OPINION AND ACCOUNTABILITY | <ul style="list-style-type: none"> Government policy documents/National Development Plan, including the penal system Ministry of Justice/Ministry of Interior reports Penal System Reports and policy documents Seminar/conference reports Press reports Reports by NGOs working on criminal justice issues Public surveys and research reports | <ul style="list-style-type: none"> Ministry of Justice/Interior Senior Prison System officials Media representatives NGOs working on criminal justice issues Bar Associations and lawyers Ex-prisoners and their families | |

| | TOPIC | SOURCES | CONTACTS | COMPLETED |
|-----|---------------------|---|---|-----------|
| 7.1 | SYSTEM COORDINATION | <ul style="list-style-type: none"> ▪ Ministry of Justice reports ▪ Ministry of Interior reports ▪ Ministry of Health reports ▪ Penal System Reports ▪ National Police Crime reports ▪ Court Annual Reports ▪ NGO reports ▪ Donor reports ▪ The Constitution ▪ Criminal/Penal Code ▪ Criminal/Penal Procedure Code ▪ Prison Act/Penal Enforcement Code ▪ Probation Act and any other relevant acts of parliament ▪ Regulations to these codes and acts ▪ Judicial Sentencing Policy Document ▪ Judicial Practice Directions, Circulars and Sentencing Guidelines ▪ Government policy documents/ National Reform Programmes ▪ Independent reports made by non-governmental organisations. ▪ Legal textbooks or academic research papers. ▪ Juvenile Court Act ▪ Regulations to this act ▪ Health Act ▪ Act governing drug courts ▪ Regulations to Health Acts ▪ Probation Service Health Policy/Strategy Paper ▪ Medical Association Reports ▪ Psychiatrists' Association Reports • UNHCR reports on the country assessed; • Reports on minority groups by NGOs and others working on minority rights ▪ Reports/Minutes of coordinating meetings ▪ Reports on special joint initiatives ▪ Progress reports by donor organizations ▪ Independent studies conducted by universities/NGOs <p>SITE VISITS</p> | <ul style="list-style-type: none"> ▪ Ministry of Justice /Ministry of Interior ▪ Ministry of Health ▪ Senior Prison Service Officers ▪ Senior Probation Service Officers ▪ High Court Judges and other senior judges ▪ NGOs working on criminal justice matters ▪ Donor organisations working on the criminal justice sector ▪ Senior Probation Service Staff ▪ Senior Prison Service Staff ▪ Legislative offices ▪ Bar Associations ▪ Donor organisations working on the criminal justice sector ▪ Regional and local prison staff ▪ Regional and local police ▪ Regional and local judges and magistrates ▪ Local probation service offices or other bodies responsible for supervising and supporting offenders and prisoners ▪ Former prisoners and their families, ▪ Juvenile courts / Juvenile police ▪ Juvenile probation staff ▪ Health services providing treatment for mentally ill offenders ▪ Medical Association ▪ Psychiatrists' Association ▪ Drug courts ▪ Health services providing treatment for drug addicted offenders ▪ UNHCR staff; ▪ Consular representatives and/or families of foreign offenders ▪ Families of minority group detainees ▪ NGOs working on minority rights ▪ Donor organisations | |

| | TOPIC | SOURCES | CONTACTS | COMPLETED |
|-----|--------------------|---|---|-----------|
| 7.2 | DONOR COORDINATION | <ul style="list-style-type: none"> ▪ Donor Strategy papers ▪ Progress reports by donor organizations ▪ Independent studies conducted by universities/NGOs ▪ Ministry of Interior/Justice strategy papers relating to cooperation and coordination with donors ▪ Poverty Reduction Strategy Paper | <ul style="list-style-type: none"> ▪ Donor organisations ▪ Ministry of Justice ▪ Universities and NGOs | |

¹ “This phenomenon is taking place in a global context in which a hardened security-based approach to conflict resolution has in turn provided both the political leverage and moral justification for the utilisation of criminal policy to deal with a widening array of social and economic issues including drug use and immigration...In Mexico, for instance, legislators, persuaded by public pressure, extended the list of crimes for which accused persons can be detained on remand and increased the number of offences for which imprisonment could be applied”. (‘Over-use of Imprisonment: Causes, Consequences & Responses’ Penal Reform International Newsletter No.55, July 2006, p. 5).

² For example, in England and Wales, where the size of the prison population had reached crisis levels by September 2006, homicide rates had fallen by 12% in 2005/2006, compared to the previous year (the third successive year that the homicide rate had decreased). According to the British Crime Survey (BCS) statistics, crime had fallen by 44% in the last 10 years. Compared to 12 months ago, overall crime levels remained stable with a 1% rise recorded by BCS and 1% fall recorded on separate police figures (Crime in England and Wales 2005/06, Home Office Statistical Bulletin 12/06). Similarly, in US and Australia where imprisonment rates have grown, the national crime rate has actually declined. (‘Over-use of Imprisonment: Causes, Consequences & Responses’, Penal Reform International Newsletter No. 55, July 2006, p.5). See also, Coyle, A., “Managing Prisons in a Time of Change”, International Centre for Prison Studies, 2002, p. 27.

³ See Coyle A., “Managing Prisons in a Time of Change”, International Centre for Prison Studies, 2002, pp. 49-51 for a discussion on striking the balance between accountability and political interference.

⁴ For example, according to research undertaken by the Bureau of Justice Statistics in 2002 and 2004, the results of which were announced on 6 September 2006, more than half of U.S. prisoners have symptoms of mental health problems, with fewer than one third of them receiving treatment in prison. According to a recent study conducted in the United Arab Emirates, by the Decision Making Support Centre for Dubai Police, drug related offences account for 63% of the total number of prisoners (Khaleej Times, 17/09/2006). In Romania, over 40% of those imprisoned were convicted of theft in 2003, according to a report by the Association for the Defence of Human Rights in Romania - The Helsinki Committee of Romania, “The Penitentiary System in Romania, 1995-2004”, published in 2005. These examples are not unique. Similar situations have been recorded in countries worldwide.

⁵ e.g. Sampson, R. and Laub, J (1993), *Crime in the Making: Pathways and Turning Points through Life*. Cambridge, MA: Harvard University Press, cited in Maruna, S. and Immermeon R., (Ed), *After Crime and Punishment: Pathways to offender reintegration*, Devon, UK, 2004., p. 15

⁶ For a discussion, see Coyle, A., “Managing Change”, International Centre for Prison Studies, 2002, pp. 31, 47, 59-60.

⁷ See European Prison Rules (2006), 51.1

⁸ Walmsley, R., *World Female Imprisonment List 2006*, International Centre for Prison Studies, www.prisonstudies.org.

⁹ Council of Europe, Committee of Ministers Resolution (76) 2 On the Treatment of Long-term Prisoners, 9 and 12.

¹⁰ Coyle, A “A Human Rights Approach to Prison Management”, International Centre for Prison Studies, p. 55

¹¹ In the Netherlands, for example, “there are a variety of supervision mechanisms organised by different Ministries, often with the authority to control different aspects of prison and life in prison. ... In addition, each prison has a legally based local committee, which supervises prison conditions and deals with complaints from prisoners. ...The independent Court of Audit has legal authority to audit the performance of the State and its associated bodies and in 2000 audited “the design and operation of the integrity policy in prisons”. These inspection and audit bodies are all independent of the prisons system and can also act as a countervailing influence to any political attempt to introduce changes which might threaten the human treatment of prisoners. Other jurisdictions have a similar raft of checks and balances”. Coyle, A, in “Managing Prisons in a Time of Change”, International Centre for Prison Studies, 2002, p. 50.



UNITED NATIONS
Office on Drugs and Crime



Criminal Justice Reform Unit
Vienna International Centre, P.O. Box 500, 1400 Vienna, Austria
Tel.: (+43-1) 26060-0, www.unodc.org
E-mail: criminal.justice@unodc.org