

Principles of Management

MANUAL FOR PRISON DIRECTORS



Juba, Southern Sudan
26 February – 2 March 2007



International Centre
for Criminal Law
Reform and Criminal
Justice Policy



PRINCIPLES OF PRISON MANAGEMENT

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**Government of Southern Sudan
United Nations Mission in Sudan
United Nations Office on Drugs and Crime
International Centre for Criminal Law Reform and
Criminal Justice Policy**

Juba, Southern Sudan
26 February – 2 March 2007

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(Cover photo: by V. Chin, Juba Central Prison, Juba, Southern Sudan)

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INTRODUCTION

Last year UNMIS and the Government of Southern Sudan invited the UN Office on Drugs and Crime (UNODC) to conduct an exploratory assessment mission and determine some immediate opportunities to provide support in the area of prison reform in Southern Sudan as part of larger and longer-term programme of support for penal reform.

In Southern Sudan, prison officials and their staff are working under difficult circumstances and they face difficult challenges in building the capacity of the prison system of their country. They have little financial and material means and untrained human resources. Yet, they feel a sense of urgency and know that a heavy responsibility rests on their shoulders in the context of nation building and reconstruction. As experienced leaders, they were selected to lead their country in building a prison system that will be guided by a respect for human rights and contribute to building of just, fair and democratic society. Building the capacity of the prison system starts with supporting leaders who will find ways to offer a compelling vision, plan and manage change, mobilize the necessary resources, motivate and train their staff, and persevere in the face of difficulties.

Among the many challenges they face, prison directors have to work with very poor facilities, very little resources, poorly trained staff, and an undeveloped policy and regulatory framework. A full assessment of the prison system of the country has not yet been conducted. Of greatest immediate concern is the fact that there is no overall count of the numbers of people incarcerated in Southern Sudan, no systematic information on the characteristics of the prison population, and no comprehensive assessment of existing prison facilities or human resources.

Prison directors must pool their resources and the little information they have to develop a common understanding of the challenges they face as well as potential solutions. They must then identify the actions that they can take individually and collectively to progressively bring their institutions up to minimum international standards. They need to plan change carefully and design practical strategies for capacity building in cooperation with other officials and with donor agencies and providers of technical assistance.

International standards and norms relating to the administration of criminal justice, and in particular to prisons, can provide the directors with an

important value-based framework to guide the reconstruction of their prison system and to inspire some urgent reforms. Unfortunately, these international standards are poorly understood and assimilated within the system itself. Prison officials, because they are expected to lead these prison reforms, must have opportunities to better understand these standards, to reflect on how they can be applied to the South Sudanese situation, and to elaborate practical strategies for the implementation of these human rights standards as part of an overall strategy to rebuild the system. Above all, managers need an opportunity to work with each other, compare their respective approaches and strategies, discuss the relevance of international standards, and figure out together how they can effectively manage the important changes that lie ahead.

Human Rights Based Approach to Prison Management

The course and this accompanying manual are based on a value-based, human rights approach to good prison management. It emphasizes the importance of international human rights standards.

UNMIS, UNODC and their partner for this project, the International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR), recognized the importance of offering training and planning support to the senior managers of the prison system. The success of their efforts and the effectiveness of their leadership will be critical in the longer term in reinforcing

the capacity of the prison system and ensuring a stronger focus on the human right aspects of imprisonment.

A training course for senior correctional managers was developed, based on international human rights standards and principles. It intends to strengthen a value-based leadership approach to prison reform and prison capacity building. The course aims to achieve several interrelated objectives. Firstly, in the absence of a comprehensive assessment of the prison system in Sudan, the course is designed in such a way that it will allow participants, all of whom are senior managers, to use this rare opportunity to meet and work together in order to

Purposes of the Course

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

identify challenges within the system and to engage in some system-wide planning. The course will provide each manager with a human rights based framework to identify and articulate the many challenges and issues with which they are currently confronted. The course will also expose these managers to existing international standards relating to prisons and criminal sanctions and allow them to reflect on their relevance to the situation in Southern Sudan. At the same time, the course will introduce some concepts and best practices with respect to the implementation of human rights standards as part of good prison management. Finally, the course will provide participants with an opportunity to engage in some planning exercises and benefit from the feedback and input that they can provide each other.

This manual was developed to support the learning and planning process that will take place during the course. It offers materials that can inform the presentation and discussions that will take place during the course. Each one of the fourteen chapters introduces an important aspect of prison management within a human rights framework. The chapters generally all follow the same structure: (1) highlights of the chapter; (2) a description of the objectives of the lesson; (3) a list of the learning outcomes to be achieved; (4) a background section, containing a general discussion of the issue being addressed in the chapter; (5) an introduction of the relevant human rights standards; (6) a discussion of implementation issues; (7) a recapitulation of the main points covered in the chapter.

We hope that participants will find this short manual helpful and that they will not hesitate to provide feedback to the instructors on its usefulness.

Chapter 1

Identification of Challenges

Highlights

In the absence of an overall assessment of the prison system in Southern Sudan, this first module will encourage participants to identify some of the main challenges faced by prison directors in managing their respective institutions and bringing them into compliance with international human rights standards and norms.

Objectives

The objectives of this module are to offer participants an opportunity to:

1. Describe the prison system as it exists in Southern Sudan
2. Identify the management challenges they currently encounter
3. Identify some of the prison system's basic capacity issues
4. Describe their own prison management experience and begin to list some of the biggest issues they face in managing prisons, prisoners, and prison staff
5. Compare their own experience with that of their colleagues in other institutions
6. Relate the objectives and contents of the course to the issues they will have identified

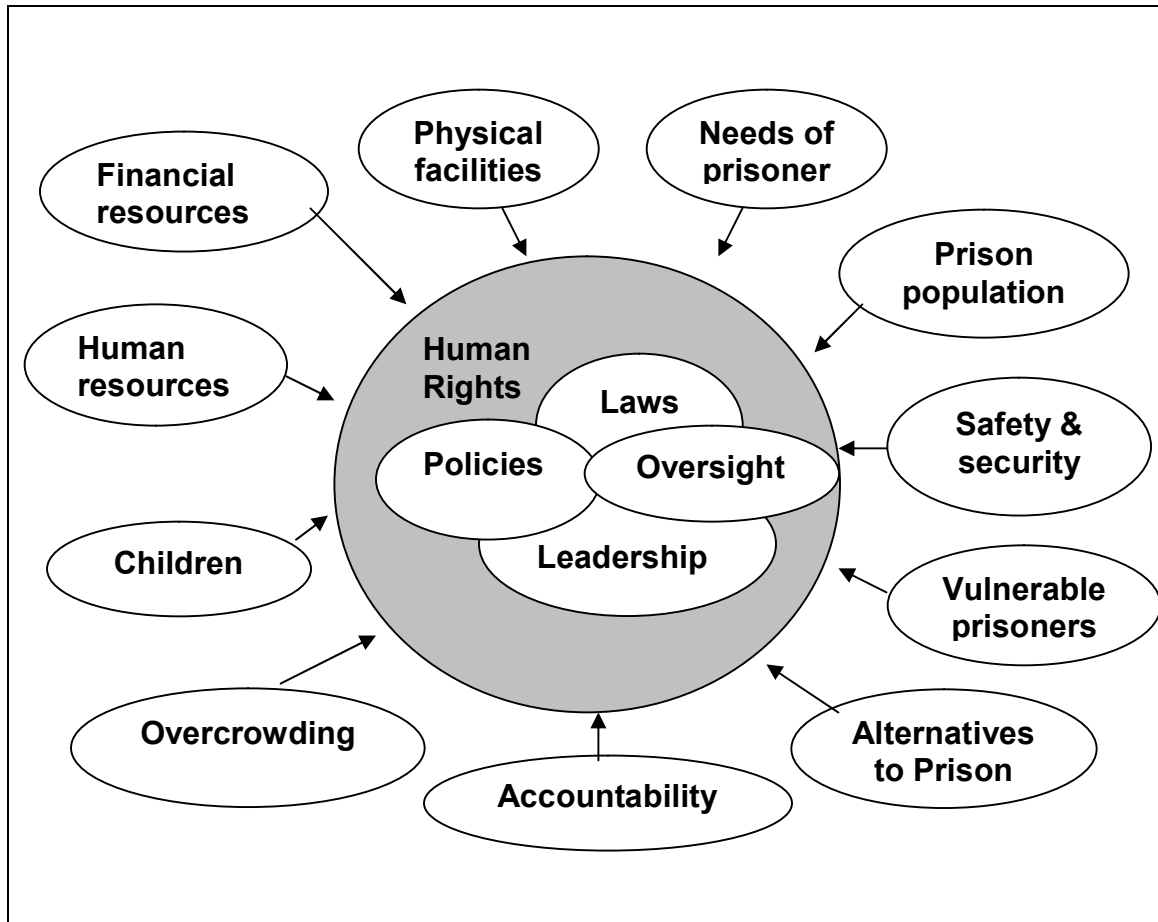
Learning Outcomes

At the end of this session, participants will be able to:

1. list the main management issues and challenges typically encountered in the prison system in Southern Sudan;
2. formulate some of these issues in terms of their human rights implications;
3. relate the issues to the various elements of the training course.

😊 Background

The following graph illustrates a number of areas that are full of difficult challenges for prison managers. This module will focus on identifying issues with which prison managers are being confronted and relating them a number of categories for which human rights standards offer guidance.



A preliminary identification of issues reveals that many of them are indeed the results of social, political, and environmental factors over which prison managers have little control. We must understand how these different issues are interrelated in order to begin to address them effectively. Part of the discussion will also focus on the links between the prison system and the rest of the criminal justice system. How the criminal justice system deals with offenders determines the size and composition of the prison population. In planning reforms of the prison system, one should be aware that the efficient management and humane prison conditions are not dependent on the prison authority alone. What happens in prisons is related to how the criminal justice system as a whole is managed, and what pressures that system is under from politicians and the public.

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

At the centre of the graphic above, is an illustration of four engines of change: legal reform; policy formulation and implementation, transparency and oversight, and leadership. The manual and the course will address each one of these dimensions and encourage participants to reflect on their own role, as leaders, in bringing about change in their respective institutions and in the prison system as a whole.

A statement on prison policy issued by the government may assist those charged with managing prisons and provide direction for future reforms. However, such a policy framework (or even a proper legal framework) often does not exist. Prison leaders often see it as necessary to work with

Statement of Prison Policy

A proper statement of purpose and a basic statement of prison policy that refers to human rights standards is usually a pre-requisite to effective prison reforms.

They can provide a sense of direction for all those involved in the system.

development partners and other government agencies to develop a strategic plan for the prison service and a plan to introduce the many reforms that are required. They also consider developing a mission statement and a 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. How these principles are applied in practice should be set down in secondary legislation such as Prison Regulations that may then be refined in further detail in Prison Standing Orders. They should be drafted within the framework of international human rights standards governing detention and the treatment of prisoners.

The task faced by prison managers in balancing the goals of security and the objective of social reintegration of the offenders is a very difficult one. Radical changes to existing practices are often required and a simple and effective planning process is usually necessary to guide these changes.



Activity

1. Break-out group discussion on issues encountered in various prisons.

2. Mapping of issues by general categories
3. Instructors to relate some of the course contents to some of the issues identified.

Chapter 2

Effective Leadership

Highlights

This module focuses on how prison managers can become effective leaders and effect change within their own institution.

Objectives

The objectives of this module are:

1. To examine different models of leadership and management for prisons, as well as different management styles
2. To discuss the role and tasks of leaders and managers with the prison context
3. To identify the obstacles faced by participants as leaders and managers

Learning Outcomes

At the end of this session, participants will:

1. Have examined different models of leadership and management for prisons, as well as different management styles
2. Have reflected on and discussed with each other the role and responsibilities of leaders and managers with the prison context
3. Have raised any obstacles facing the participants as leaders and managers

Background

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

The Leadership Challenge by J. M. Kouzes and B. Z. Posner,
1995

Main Features of Good Leadership
<ol style="list-style-type: none">1. View leadership role as a challenge; don't be afraid to face challenges, take risks, be positive about learning from your mistakes.2. Build a common and shared vision with your colleagues and staff and ensure the vision includes values and interests of as many of them as possible3. Praise and reward individual achievement and successes: this will inspire those around you to want to improve and do more.4. Be a model for others; encourage feedback from others and provide the same to your colleagues; build trust and real cooperation by effective delegation of authority and empowering staff to take the initiative and developing their own competence and confidence.

Leadership qualities include the following:

1. Having a vision for the organization
2. Being sure and clear about one's goals as well as those of the organization
3. Being able to convey and communicate these goals to their staff and be able to explain the organization's mission clearly and in a way that is understood by staff
4. Being able to command authority and to have instructions and decisions carried out effectively
5. Setting an example to the staff in terms of values and ethics; to set the standard by which all others will be measured
6. Being able to build meaningful and effective relationships with the secondary level of managers and to delegate responsibilities to them and to have them be accountable to the leadership (team building)
7. Being able to develop good decision-making processes which include staff.
8. Being able to manage change within the institution
9. Developing good relations with other governmental organizations especially those within the criminal justice system, as well as non-governmental organizations which may be able to support prison programmes.
10. Being able to collaborate with and have access to resources from governmental agencies, international organizations as well as community groups

☆ Issues and Challenges

1. How to motivate staff and prisoners
2. How to motivate other leaders around oneself
3. How to improve communication skills
4. How to improve strategic thinking skills
5. How to deal with resistance to change among staff and among prisoners
6. How to deal with staff who do not cooperate or act like a team member
7. How to assess one's own progress and competence



Activities

“Credibility of action is the single most significant determinant of whether a leader will be followed over time.”

The Leadership Challenge by J. M. Kouzes and B. Z. Posner,
1995

Participants will describe the organizational structure of their prison, the authority structure within the prison and within the prison system as a whole. They will be invited to discuss how decisions are made within their institution.

Participants will be invited to discuss the role of values in leadership and in promoting change.

Participants will be invited to discuss their own style of leadership and their experience in managing change and in dealing with resistance to change.

Participants will be invited to reflect on the so-called “resistance” to change within organizations and how a leader can address that problem.

☑ Recapitulation

1. Change within countries, legal systems, or correctional facilities can only come about with the right kind of leadership.
2. The first requirement is to have clear policy direction and objectives, a sense of direction that can be communicated clearly.
3. The second requirement is to have good leaders in place.

4. The third requirement is to ensure those leaders have the support from their seniors to carry out their work.
5. The fourth requirement is for leaders to establish strong and dependable relationships with their staff and to ensure their staff understand what is expected of them. Good leaders engage with staff as much as possible and then make their decisions based on the information they have gathered from staff as well as other sources.
6. The fifth requirement is for leaders to establish and maintain good relationships with agencies and communities outside the prison to ensure there is cooperation, coordination and assistance when they are needed.

Chapter 3

International Standards and Good Prison Management

Highlights

In this module, participants will learn about how international standards and norms are directly relevant to good prison management and to the humane treatment of prisoners. The instructors will refer to the sources of international standards and will encourage participants to reflect on the relevance of these standards in the context of Southern Sudan.

Objectives

The objectives of this module are:

1. To reflect on the purpose of imprisonment, human rights, and the role of prison leaders
2. To understand the relevant human rights standards in the administration of justice and in particular in prisons
3. To become familiar with sources of human rights standards relating to prisons and their relevance to effective prison management
4. To identify issues and challenges in applying norms and standards in Southern Sudan

Learning Outcomes

At the end of this session, participants will:

1. Have clarified their thoughts on the purpose of imprisonment and the use of imprisonment in Southern Sudan
2. Be familiar with basic human rights instruments in the area of the administration of justice and in particular in prisons
3. Understand what are the sources of human rights standards relating to prisons and their relevance to effective prison management

4. Have identified issues and challenges in applying norms and standards in Southern Sudan

😊 **Background**

In order for a prison system 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 (SMRs); 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 instruments.

People who have been imprisoned are human beings and have rights just like every other human being. They may have committed a terrible crime, they may be waiting for trial, they may pose a danger to the public or they may pose a political threat to the government. The main purpose of imprisonment is to deprive someone of their liberty as a consequence of their behaviour. The punishment for that behaviour is the deprivation of liberty and nothing else. For whatever reason they are in prison, international standards and norms say that they should be treated as human beings and not be subject to inhumane or degrading treatment. Most prisoners will one day be released back into society and how they were treated and what they learned in prison will determine how they behave when they are released.

The standards and norms on the treatment of prisoners can be found in universal human rights and they apply to every human being and include the following:

- the right to life and integrity of the person
- the right to be free from torture or other ill-treatment
- the right to health
- the right to respect for human dignity
- the right to due process of law
- the right to freedom from discrimination of any kind
- the right to freedom from slavery
- the right to freedom of conscience and of thought
- the right to freedom of religion
- the right to respect for family life
- the right to self-development

In every country in the world, whether they are rich or poor, peaceful or in conflict situations, there are issues and challenges to upholding human rights standards and norms. Not one country has a perfect record on human rights. In conflict and post-conflict situations such as Southern Sudan, it may be even more of a challenge to ensure the upholding of human rights standards and probably even more difficult to do so within prisons.

What are the issues and challenges facing prison managers in terms of ensuring human rights standards are respected in their prisons?

Do prison staff understand and accept that prisoners deserve to be treated like human beings or do they believe they deserve to be treated less well than non-prisoners?

⇒ **Relevant International Standards**

Most independent countries are members of international and regional organizations. These organizations such as the United Nations or the African Commission on Human and Peoples' Rights, have established international standards and norms with the full support of their membership. Standards and norms come in different forms such as treaties, conventions, declarations and principles and may be implemented and applied in different ways for example by legislation or by training such as this course.

There are universal human rights standards and norms that are contained in such international instruments as:

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

There are regional human rights standards and norms such as:

- African (Banjul) Charter on Human and Peoples' Rights
- African Charter On The Rights And Welfare Of The Child
- African Youth Charter

There are also more specific human rights instruments, for example:

- International Covenant on Economic, Social and Cultural Rights
- International Covenant on Civil and Political Rights
- Convention on the Rights of the Child

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination against Women
- Convention on the Prevention and Punishment of the Crime of Genocide

Then there are international documents that have been agreed upon by countries to safeguard the rights of prisoners and those include:

- Standard Minimum Rules for the Treatment of Prisoners
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- Basic Principles for the Treatment of Prisoners

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

There is also a Special Rapporteur on Prisons and Prison Conditions in Africa whose work is to examine prisons and prison conditions in Africa, to ensure the protection of persons in detention or in prison. The mandate of the Special Rapporteur is based on international human rights instruments.

4 principles of the standards and norms:

1. Danger of human rights being abused by the state
2. People are imprisoned as a punishment and not for punishment
3. State has a duty of care of those in their custody
4. There is life after prison and they need to be prepared for release

Practical Application of International Standards

The practical application of international standards will be addressed in the other chapters. Each chapter will refer the specific standards applicable to the question being discussed.



Activities

Participants will be asked to give an example of an event that they have experienced where human rights standards were not respected and how they dealt with those involved. They will be encouraged to try to apply some of the standards that they have heard about during the module to those situations and to describe how they might act differently in the future. It is important for participants to highlight the potential and anticipated difficulties that may arise and help each try to resolve those difficulties.



Recapitulation

The main points to be reviewed will be:

1. International standards and norms should be at the centre of effective prison management
2. International standards must be communicated and applied to every aspect of prison management.
3. International standards must be communicated clearly to the prison staff and correctional leaders must constantly reinforce their importance.

Chapter 4

Management and Accountability

Highlights

This chapter focuses on accountability and what forms the basis of responsible leadership and management. At the centre of good leadership are the ethics and values of the individuals in authority. This is especially true of police and corrections officers to whom the State delegates the use of force and coercion and relies on that use of force to be carried out in the most ethical way.

Objectives

The objectives of this module are:

1. To discuss the definition of accountability and what it means to senior management
2. To examine the different ways that leaders are required to be accountable
3. To examine ways that leaders can establish a system of accountability within their organization

Learning Outcomes

At the end of this session, participants will:

1. Have had an opportunity to discuss the definition of accountability and what it means in the context of prison management
2. Have examined the different ways that leaders are required to be accountable
3. Understood the concept of accountability in relation to the rights of prisoners
4. Identified ways to establish a system of accountability within their own organization

😊 Discussion

A prison system needs 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.

The public sometimes regards resources allocated to the health, social welfare, education and vocational training 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. It is therefore 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.

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 mechanisms for the oversight of the prison system be established. This can be achieved in a number of different ways. A chapter on oversight mechanisms will address them in greater detail.

The authority of good government has to be based on accountability. Good governance presupposes accountability. Government should be accountable for its actions. In post-conflict situations like Southern Sudan, there is often a need for legal authority to be re-established completely and for new controls to be exerted over various government institutions.

In the same way, government institutions such as prisons are accountable for their actions and how they run the prisons. Good leadership within prisons is one that is accountable for its actions and can be trusted to be fair and ethical.

✂ Issues and Challenges

1. Many large hierarchically structured organizations and especially those concerned with law enforcement and corrections suffer from a propensity to hide behind secrecy. People who know about something unethical or illegal will prefer to be quiet and not report it for fear of being labelled a “traitor” or

someone who has betrayed a colleague or the organization. If there is a safe way in which to report such events, there may be less corruption and more transparency. Silence undermines accountability.

2. "Command and control" is a common way of managing prison. However, this often results in unhappiness among the staff and also an understanding gap between levels of power. Leaders who not only work with their staff in a collaborative way but are also seen to be taking responsibility for their actions are far more respected and successful in their jobs than those who simply give orders.

Leaders have to consider how best to address incidents of corruption, incompetence, or unethical behaviour. It is important to have procedures and protocols clearly stated and followed and that due diligence in any investigation is followed. The example that they themselves set for others is of crucial importance.

Corruption is widespread in prisons, especially in low-income countries, where prison staffs 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 some administrations, corruption may be systemic, constituting a chain starting from the lowest rank prison staff and extending to very high levels. If corruption is institutionalized, then the humane and fair administration of prisons is severely undermined.

⇒ **Relevant International Standards**

Standards in the area of management and accountability are usually defined at the national level.

☆ **Practical Applications**

Some of the ways in which high standards in leadership in general can be achieved are:

1. Demonstrate personal integrity and ethics in order to create a positive organizational culture.
2. Be accountable and take responsibility for one's own actions and create an atmosphere of transparency

3. Set clear boundaries within the organization as to what is acceptable and what is not acceptable behaviour.
4. Be fair and equitable with staff and the prisoners.
5. Use performance measures as ways to hold prison staff accountable. These can be used to monitor and evaluate job performance and ensure that the system is fair and equitable.
6. Cooperate with oversight mechanisms.



Activity: Questions for Discussion

1. How are prison leaders in Southern Sudan held accountable for their actions and decisions?
2. What are the obstacles to accountability within your organization and within the larger organization?
3. What is the best way to deal with corrupt staff who have behaved unethically?
4. How is performance measured among staff in the prison?
5. Is there a general perception among the public, offenders' families and offenders that corruption is widespread in the prison system?
6. If corruption is a problem, have any steps been taken by managers to tackle that problem? What are they?



Recapitulation

1. Accountability means taking responsibility for actions and decisions.
2. Effective organizations are those that have a well-established system of accountability and clear guidelines on what is expected of everyone within the organization.
3. A code of ethics for the organization may be useful.
4. Leaders have to be very clear about their own ethics and values and gain the trust of their staff by standing by those values.

Chapter 5

Managing Human and Financial Resources

Highlights

This chapter will focus on how leaders and managers achieve their goals and objectives by managing human and financial resources responsibly. Leaders need not only adequate human and financial resources but they need to understand how to use human and financial resources effectively. Typically the responsibilities of both human and financial resource allocation are closely linked and may come under the same part of the organization. It is important to highlight the need for human and financial resources to be well coordinated.

Objectives

The objectives of this chapter are to:

1. examine the importance of planning, goal setting, and alignment of human and financial resources
2. examine the issues of staff recruitment, training/professional skills, supervision, performance reviews, retention, career advancement, conditions of service
3. explore how leaders can mobilize both human and financial resources
4. explore how leaders can mobilize assistance and funding from donors

Learning Outcomes

At the end of this chapter, participants will:

1. Understand the importance of planning, goal setting, and alignment of human and financial resources
2. Identified issues of staff recruitment, training, supervision, retention, promotion and conditions of service

3. Understood how they can explore different strategies for mobilizing both human and financial resources
4. Explored how they can mobilize assistance and funding from donors

Discussion

The management of human and financial resources is one of the main challenges facing a leader of any organization. Within the prison system, there is typically a sizeable hierarchical structure within which there are established procedures of recruitment, hiring, training, promotion and dismissal or retirement. The management of those resources is critical to the smooth running of the prison. Fair staff management practices are a pre-requisite to good prison management.

Prison systems are organized in varying ways. Most countries, however, have a prison system that is organized nationally, with the central prison administration having full authority over the regional and local administrative departments. It has been suggested that the systems that organize 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.

Human Resources:

Adequate and well-trained personnel are essential for the efficient management of any organization. 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).

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 often inadequate, which contributes to dissatisfaction and corrupt practices. If the prison service is within the Ministry of Interior, however, and have military status, then they might have a range of additional privileges, as well as comparatively higher salaries.

☆ **Issues and Challenges**

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

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

Maintaining motivation among staff is sometimes an issue. Providing leadership when staff is not motivated can be very difficult. Effective supervision of staff is necessary. Using measures to monitor performance can help ensure that supervision is consistent and uniform and there is less of a chance that staff can be dismissed or transferred for the wrong reasons.

Hiring someone for the right reason and on the right basis is critical to the kind of organization the prison becomes. Interviews should be conducted in order to understand the strengths and the weaknesses of the individual, their motivation for wishing to join, and what their core values are.

⇒ **Relevant International Standards**

International standards and norms do not currently prescribe anything under human and financial resource management.

Activities: Questions for Discussion in Small Groups

1. How do you plan for staffing, training, and other resources in order to implement your goals?
2. What alternative measures have you taken to help to add to your resources?
3. How do you reallocate human and financial resources from one area to another?

4. What is the number of staff positions in prisons? What is the actual number of staff?
5. Is there a standard and proper recruitment procedure for prison staff?
6. Are there minimum qualifications for positions?
7. Is there transparency in the hiring process?
8. Does the prison service have an employee manual that explains policies, procedures, and responsibilities?
9. How are employees evaluated? Promoted? Disciplined? Demoted? Terminated? Are there procedures for each?
10. How does the remuneration of staff compare to the local cost and standards of living?
11. What training do prison staffs receive? What subjects does the curriculum include and how long does the training take? Does the training include a human rights component?

Recapitulation

1. It is important to plan and set goals for the organization and ensure that the human and financial resources are also aligned with these goals.
2. The mobilization of both human and financial resources is key to achieving the organization's goals and objectives.
3. Close attention must be paid to how staff are recruited, trained, supervised, and evaluated. Attention must also be given to career advancement and conditions of service in order to retain staff and provide incentives.

Chapter 6

Management of Physical Facilities

Highlights

This chapter focuses on how best to use the space within the prison in order to achieve its goals.

Objectives

The objectives of this module are:

1. To examine how best to use the physical facilities or space within prisons
2. To examine how the use of space impacts on accommodation of prisoners
3. To examine how the use of space impacts on the separation of certain vulnerable prisoners such as youth, women, disabled prisoners, mentally ill prisoners, sick prisoners, pre-trial detainees.
4. To discuss the ways in which better use of physical facilities can be implemented

Learning Outcomes

At the end of this session, participants will:

1. Understand the potential detrimental effects of prison overcrowding, in particular its effect on the rights of prisoners.
2. Have considered whether the physical facilities and space available at their institution are used efficiently and how they can be improved
3. Understand how the use of space impacts on accommodation of prisoners
4. Understand how available space must be utilized to separate certain vulnerable prisoners such as youth, women, disabled

prisoners, mentally ill prisoners, sick prisoners, pre-trial detainees from other prisoners.

5. Be able to suggest ways in which to improve the use of physical facilities in prisons

😊 **Background**

Prisons are built differently in different parts of the world depending on the wealth of the country, the circumstances of the prisoners, the security level of the prison, the climate, the geography, and the history of the country. Many prisons were built a long time ago during colonial times and therefore are very old and small by comparison to the needs of the country today.

★ **Issues and Challenges**

There are several models of prison architecture in the world. Most prisons are designed to ensure that prisoners do not escape, that prisoners have access to only certain parts of the prison and not other parts, that certain prisoners can be separated from other prisoners (such as dangerous prisoners), that prison guards are positioned in places that gives them the best view of what is happening in every part of the prison. The more prison guards that are needed to watch the prisoners, the fewer guards there are to take any necessary control action. Look-out posts are important places from which information about disturbances can be transmitted to other parts of the prison and to other guards who need to be deployed to the troubled parts.

Because events can happen very quickly in prisons and because tensions can run very high, it is important for prison guards to be fully equipped to react as quickly as possible.

Prison guards may also be required to position themselves inside secure enclosures so that prisoners cannot physically get too close to them. Other forms of protection include glass or plastic partitions through which they can see and hear prisoners but that safely separate them from the prisoners.

Cells and dormitories can become overcrowded. This can have several effects including raising tensions and causing friction among prisoners. Space utilization can be used to alleviate the potential for problems to occur. In most cases, prison authorities do not have much choice in how the prison is designed but different kinds of partitions may allow different

spaces to be used for different purposes. Boredom and tension are sources of problems within prisons so finding ways to address those issues is always helpful for maintaining an orderly and safe environment in prisons.

⇒ **Relevant International Standards**

There are no international standards or norms which describe the model prison. International standards and norms are concerned more with the conditions of the prison and the welfare of the prisoner. Prison authorities have had to design prisons according to their needs and available resources. There are certain architectural designs which are favoured over others, e.g. central command posts with 360 degree visibility to ensure greater security with the least number of watch guards; the “H” block design also to ensure greater security by limiting the number of exits and command posts; designs which include secure recreational areas for prisoners.

Activities: Questions for Discussion

1. With reference to existing prisons in Southern Sudan, how can the physical facilities be used differently to improve prison conditions for prisoners?
2. What are the elements that should be included in the design of a model institution?
3. What would be the first thing you would like to change in the design of the prison which you manage if you had the resources?

Recapitulation

1. How prison space and physical facilities are used greatly affects factors like public safety, prisoners living conditions, prison guard security and the ability to maintain control and order within the prison.
2. With increasing numbers of incarcerated individuals, space within prisons is often insufficient and prison authorities are required to find new ways to cope with such challenges.
3. Prison overcrowding can have a severe impact on the rights of prisoners.
4. The job of a prison manager is partly to ensure that all prison facilities are being used in the most efficient way.

Chapter 7

Meeting the Basic Needs of Prisoners

Highlights

This chapter will cover international standards and norms relating to the basic needs of prisoners. It will assist participants in considering whether these standards are complied with within their respective institution. It will lead to a discussion of how these standards can be implemented in prisons.

Objectives

The main objectives of this module are to:

1. Review international standards relating to the basic needs of offenders
2. Reflect on how to implement these standards in the context of prisons in Southern Sudan
3. Review how prisons in Southern Sudan comply with international standards
4. Look at specific gender aspects of the basic needs
5. To examine the impact of HIV/Aids on prisons in Southern Sudan

Learning Outcomes

At the end of this session, participants will:

1. Have learned how the accommodation of prisoners should meet certain standards and norms
2. Have learned how adequate food and water are essential in meeting standards and norms
3. Have learned how sufficient clothing and bedding should meet certain standards and norms
4. Have learned about standards and norms relating to health, sanitation, HIV/Aids, and leisure and exercise.

😊 Discussion

When someone is sent to prison by a judicial authority, the international standards clearly state that the punishment that has been imposed should be only the deprivation of liberty. Imprisonment does not mean that prisoners can be or should be exposed to ill treatment or abuse or be deprived of food, a place to sleep, or adequate clothes to wear. One of the main issues encountered in implementing some minimum standards concerning the needs of offenders is the perception that the prisoners may not deserve to be treated fairly and have their basic needs addressed. In poor countries this question becomes even more relevant as it might appear that prisoners are expected to be treated better than they are used to outside prison. In countries where there is a shortage of food for the general public, the view is often held that prisoners do not deserve to be assured of adequate food or at least no more than they would if they lived in the community.

In most developing countries, there tends to be an inadequate health system for the general public. Meeting the health needs of prisoners in that context is therefore a serious challenge.

Prisons in many countries are overcrowded and small cells and dormitories are sometimes crammed with prisoners; there are insufficient beds and bedding and many prisoners have to sleep on the floor. Overcrowding in prisons have all kinds of negative effects including sanitary concerns, emotional and psychological concerns as well as concerns about the transmittal of serious diseases such as HIV/aids and hepatitis, tuberculosis etc. This has an impact on society outside the prisons as prisoners may spread the diseases to their visitors or to the community when they are eventually released.

The maintenance of sanitary conditions in prisons is important in preventing illness and disease. It may be achieved by allowing prisoners to do the cleaning, which will also help alleviate the boredom of being imprisoned.

Many prisons issue prison clothing and the standard is that it should not be degrading or humiliating. Are prisoners in Southern Sudan issued prison clothing?

⇒ **Relevant International standards**

Standard Minimum Rules for the Treatment of Prisoners

Accommodation

9. (1) Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.
- (2) Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the institution.
10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.
11. In all places where prisoners are required to live or work,
- (a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;
 - (b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.
12. The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.
13. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.
14. All pans of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

Personal hygiene

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

Clothing and bedding

17. (1) Every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating.
- (2) All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.
- (3) In exceptional circumstances, whenever a prisoner is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing

or other inconspicuous clothing.

18. If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use.
19. Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

Food

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

Exercise and sport

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

Medical services

22. (1) At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.
(2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.
(3) The services of a qualified dental officer shall be available to every prisoner.
23. (1) In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.
(2) Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.
24. The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.
25. (1) The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.
(2) The medical officer shall report to the director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by

continued imprisonment or by any condition of imprisonment.

26. (1) The medical officer shall regularly inspect and advise the director upon:
- (a) The quantity, quality, preparation and service of food;
 - (b) The hygiene and cleanliness of the institution and the prisoners;
 - (c) The sanitation, heating, lighting and ventilation of the institution;
 - (d) The suitability and cleanliness of the prisoners' clothing and bedding;
 - (e) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.
- (2) The director shall take into consideration the reports and advice that the medical officer submits according to rules 25 (2) and 26 and, in case he concurs with the recommendations made, shall take immediate steps to give effect to those recommendations; if they are not within his competence or if he does not concur with them, he shall immediately submit his own report and the advice of the medical officer to higher authority.

Practical Applications

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.

In general, international standards and norms about adequate living conditions do not specify the size of space that is sufficient for each prisoner. That is left to prison authorities to determine but generally if a cell is built for 3 prisoners, then anything exceeding that number is too many. Because prison overcrowding is a problem in most countries, it is very difficult to always ensure that these standards and norms are met. Sometimes alternative accommodation can be used and sometimes prisoners can sleep in shifts so that more than one person can use a bed. Any accommodation should also have adequate ventilation and light.

Many prisoners spend most of their day in their cells. In warmer climates, prisoners tend to spend most of their day outside in a fenced in area. It varies from country to country. Too much enclosure and too much exposure should be avoided. Prisons are sometimes able to utilize available space more efficiently with greater planning and imagination. Prisoners can be split into groups and each group can be active doing something different such as gardening, cleaning, exercising, resting, making furniture, learning a skill, or cooking.

Medical services are often not available for prisoners. Prison authorities sometimes work with non-governmental organizations to assist with the medical needs of prisoners. Traditional medicine could also be used for certain sicknesses.



Question for Discussion

1. What are the greatest challenges you encounter in your institution in terms of meeting minimum standards relating to the basic needs of prisoners?



Recapitulation

1. Prisoners have been deprived of their liberty by a judicial authority but this does not mean they should be deprived of the basic necessities of food, clothing, living space and medical services when they need them.
2. In poorer countries, the challenge is greater in achieving these standards and norms but prisons can find different ways to find solutions e.g. rabbit farming in prisons of Malawi, prison industries where prisoners make certain equipment or furniture and the goods are sold the revenue from which could be used to buy additional food and clothing for prisoners or be used to build additional facilities in the prison. Using the revenue to bolster staff salaries should be avoided as it could turn into a form of exploitation of prisoner labour.

Chapter 8

Managing the Prison Population

Highlights

In this chapter we will learn about several key activities that contribute to the efficient administrative management of the prison. The importance of the following key activities to “efficient prison management” will be highlighted: prisoner admission; records management, prisoner classification; and, prisoner release and aftercare. A central issue to all of these activities will be the requirement and availability of accurate prisoner information.

Objectives

The objectives of this module are:

1. To demonstrate the importance of a number of prison population management activities and their relevance to efficient prison management;
2. To recognize the relationship between these activities and relevant international and regional norms and standards;
3. To understand the importance of how accurate information contributes to the efficient implementation of these key activities;
4. To review the status of these activities in the context of Southern Sudan;
5. To identify operational issues and impediments to enhancing or implementing these activities; and,
6. To consider strategies to enhance or implement these activities in Southern Sudan.



Learning Outcomes

At the end of this session, participants will:

1. Be familiar with the importance of such administrative activities as prisoner admission; records management, prisoner classification; and, prisoner release and aftercare
2. Be familiar with the relationship between these activities and relevant international standards
3. Be familiar with the importance of accurate prisoner information
4. Have identified issues and impediments to enhancing or implementing these activities and considered strategies to enhance or implement these activities in Southern Sudan.



Background

Prisoner Admission and Classification

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

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

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

Registry and Records Management

Prison Registries and Records are vital in order that managers know who are in their prisons at all times. This information should be kept in a central and secure place and be constantly updated. Where prison records are poor, there is a great risk of individual prisoners becoming "lost" in the system and no one knows why they are being detained, for

how long and when they should be released. Good prisoner data management is critical to ensuring that their human rights are respected and it is also important in terms of the management of the prison itself.

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

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

1. details of the prisoner:
 - i. name
 - ii. date of birth
 - iii. gender
 - iv. identifying features
 - v. address
 - vi. nationality
 - vii. language
2. legal authority for imprisonment
3. date of admission
4. date of release
5. details of next of kin
6. a list of personal property (distinguishing between those which the person can keep in his/her possession and those which is stored by the authorities)
7. signatures (of the member of staff who completed the forms and of the prisoner to confirm that he/she has been given details of his/her rights)
8. a separate medical record.

Prisoner Release and Aftercare

The process of preparation for release and social reintegration begins in prison and continues after release. There is a need for continuity of assistance spanning this entire period. This requires close liaison between social agencies and services, as well as relevant community organizations and prison administrations during sentence. In addition, there needs to be

a programme of assistance to prepare for release close to the date of release (often starting one month prior to the release date), to ensure that the social and medical support needs of the prisoner are met and continue uninterrupted after prison.

Issues and Challenges

The key administrative functions and activities referenced above can contribute to the efficient management of the prison and the management of the prisoner.

1. Why is the obtaining and retention of accurate prisoner related information important?
2. Where should the information come from? Is prisoner self reporting sufficient?
3. What key decisions during a prisoner's sentence would benefit from access to accurate and up to date offender related information?
4. Should prisoners be informed of their recorded information? What recourse would the prisoner have if there was disagreement with the accuracy of the information?
5. Who should collect such information? Can existing prison staff be trained to do the intake process and record the necessary information? Should prisons depend only on external social workers for such tasks?

⇒ Relevant International Standards

There are universal human rights standards and norms applicable to this Module which are contained in the following international instruments:

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

There are also more specific human rights instruments that are applicable to this Module, for example:

- International Covenant on Economic, Social and Cultural Rights;
- International Covenant on Civil and Political Rights;
- Convention on the Rights of the Child;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

- International Convention on the Elimination of All Forms of Racial Discrimination;
- Convention on the Elimination of All Forms of Discrimination against Women; and,
- Convention on the Prevention and Punishment of the Crime of Genocide

Then there are international documents that have been agreed upon by countries to safeguard the rights of prisoners. Those that are consistent with this Module include:

- Declaration on the Protection of All Persons from Enforced Disappearance;
- Standard Minimum Rules for the Treatment of Prisoners;
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;
- Basic Principles for the Treatment of Prisoners; and,
- African Charter on Human and Peoples' Rights.

The following references when translated to practical operational realities support prison processes and policies that require the efficient collection and retention of prisoner related information. The practical application of these policies contributes to sound prisoner management decisions such as initial placement, work location, visits, release, etc. As noted below the references are consistent with the African Charter on Human and Peoples' Rights.

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

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

(i) Information concerning his/her identity

(ii) The reasons for his/her commitment and the authority thereafter

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

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

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

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

An official up-to-date register of all persons deprived of their liberty shall be

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

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

67. The purposes of classification shall be:

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

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

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

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

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

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

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

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

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

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

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

Article 33 of the 2002 Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa – The Robben Island Guidelines reads:

Take steps to ensure that the treatment of all persons deprived of their liberty are in conformity with international standards guided by the UN Standard Minimum Rules for the Treatment of Prisoners.

Article 5 of the African Charter on Human and Peoples' Rights reads:

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.



Activities

Questions:

1. What is the total prison population?
2. What is the prison population rate per 100,000 population?
3. What is the capacity of the prisons system?
4. What are the maximum and minimum capacities of each type of prison and what is the actual population?

Participants will be asked to identify key prisoner management decision points that impact on institutional security and prisoner social rehabilitation. Upon identifying the decision points they will be asked to list the types of information that would be required to contribute to making a sound decision. Time permitting they will then be asked to identify any impediments to the collection of such information and possible strategies to overcome the shortcomings.



Recapitulation

The main points to be reviewed will be:

1. The need to have administrative policies and procedures that require the collection and retention of significant prisoner related information;

2. Participant understanding of the role that accurate and timely information plays in the many prisoner related decisions; and
3. How these decisions impact on the efficient management of the prison.

Chapter 9

Safety and Security Within Prisons

Highlights

In this chapter, we will address the question of safety and security within prisons, both for staff as well as prisoners, and what that means in terms of ensuring that the prison is a safe and secure place but at the same time ensuring that prisoners' rights are respected and not violated.

Objectives

The objectives of this module are:

1. To examine the main elements of prison safety and security: security measures (to prevent escapes), control and punishment (to maintain order and to deal with disruptive prisoners), and human rights safeguards, and how the three elements are used in conjunction with each other to establish safety and security.
2. To examine the use of force and the principle of proportionality.
3. To examine the use of discipline, punishment, solitary confinement and other methods of control.
4. To examine contingency planning, e.g. fire outbreaks.
5. To review how the methods of ensuring prison safety and security impact women prisoners, e.g. methods of search, and admission procedures.

Learning Outcomes

At the end of this session, participants will:

1. Have engaged in an analytical and practical discussion about the relationship between security measures, control and punishment measures, as well as human rights safeguards.

2. Have examined the use of force in different circumstances and what kind of force is warranted under what conditions (principle of proportionality).
3. Have examined the use of discipline, punishment, solitary confinement and other methods of control and the principle of proportionality.

☺ Discussion

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 categorization and assessment, searching and standing operation procedures.

The proper classification of prisoners based on risk assessment is one of the most important steps prison managers must take to ensure safety and security in their prisons. The security measures to which prisoners are subject should be the minimum necessary to achieve their secure custody. This will enable prison staff to supervise more efficiently the smaller number of prisoners who pose a real danger to others; it will 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”.

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:

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

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

In many prisons in the world, prisoners are tortured. Instruments of restraint such as leg chains, irons and straightjackets are used unnecessarily. Brutal methods of control are used to maintain order. Rules and regulations on the use of force often do not exist or are not implemented or enforced; there are no proper assessments of the use of force and other forms of control.

Keeping in mind the purpose of imprisonment and that most prisoners will one day be released back into society, it is important that prisons are places where individuals do not learn values that are unjust and inhumane. Prisons are a form of crime reduction as they keep criminals out of society but they are also places where prisoners should learn about their mistakes and learn how to avoid committing further wrongdoings. If they are treated badly within prisons, they will simply become angry and they will learn to treat others in the same way they have been treated.

⇒ Relevant International Standards

Standard Minimum Rules for the Treatment of Prisoners

Discipline and punishment

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

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

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

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

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

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

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

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

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

32. (1) Punishment by close confinement or reduction of diet shall never be inflicted

unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.

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

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

Instruments of restraint

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

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

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

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

Basic Principles for the Treatment of Prisoners

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

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

Principle 6

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

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

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

Whereas the work of law enforcement officials is a social service of great importance and there is, therefore, a need to maintain and, whenever necessary, to improve the working conditions and status of these officials,

Whereas a threat to the life and safety of law enforcement officials must be seen as a threat to the stability of society as a whole,

Whereas law enforcement officials have a vital role in the protection of the right to life, liberty and security of the person, as guaranteed in the Universal Declaration of Human Rights and reaffirmed in the International Covenant on Civil and Political Rights,

Whereas the Standard Minimum Rules for the Treatment of Prisoners provide for the circumstances in which prison officials may use force in the course of their duties,

Whereas article 3 of the Code of Conduct for Law Enforcement Officials provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty,

Whereas the preparatory meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Varenna, Italy, agreed on elements to be considered in the course of further work on restraints on the use of force and firearms by law enforcement officials,

Whereas the Seventh Congress, in its resolution 14, inter alia , emphasizes that the use of force and firearms by law enforcement officials should be commensurate with due respect for human rights,

Whereas the Economic and Social Council, in its resolution 1986/10, section IX, of 21 May 1986, invited Member States to pay particular attention in the implementation of the Code to the use of force and firearms by law enforcement officials, and the General Assembly, in its resolution 41/149 of 4 December 1986, inter alia , welcomed this recommendation made by the Council,

Whereas it is appropriate that, with due regard to their personal safety, consideration be given to the role of law enforcement officials in relation to the administration of justice, to the protection of the right to life, liberty and security of the person, to their responsibility to maintain public safety and social peace and to the importance of their qualifications, training and conduct, The basic principles set forth below, which have been formulated to assist Member States in their task of ensuring and promoting the proper role of law enforcement officials, should be taken into account and respected by Governments within the framework of their national legislation and practice, and be brought to the attention of law enforcement officials as well as other persons, such as judges, prosecutors, lawyers, members of the executive branch and the legislature, and the public.

General provisions

1. Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials. In developing such rules and regulations, Governments and law enforcement agencies shall keep the ethical issues associated with the use of force and firearms constantly under review.

2. Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons. For the same purpose, it should also be possible for law enforcement officials to be equipped with self-defensive equipment such as shields, helmets, bullet-proof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind.

3. The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons,

and the use of such weapons should be carefully controlled.

4. Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

5. Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

(a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;

(b) Minimize damage and injury, and respect and preserve human life;

(c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;

(d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

6. Where injury or death is caused by the use of force and firearms by law enforcement officials, they shall report the incident promptly to their superiors, in accordance with principle 22.

7. Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.

8. Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles.

Special provisions

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

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

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

(a) Specify the circumstances under which law enforcement officials are authorized to carry firearms and prescribe the types of firearms and ammunition permitted;

(b) Ensure that firearms are used only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm;

(c) Prohibit the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk;

(d) Regulate the control, storage and issuing of firearms, including procedures for ensuring that law enforcement officials are accountable for the firearms and ammunition issued to them;

- (e) Provide for warnings to be given, if appropriate, when firearms are to be discharged;
- (f) Provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty.

Policing unlawful assemblies

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

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

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

Policing persons in custody or detention

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

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

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

Qualifications, training and counselling

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

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

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

light of particular incidents.

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

Reporting and review procedures

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

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

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

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

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

Different levels of risk call for different levels of security. Assessing the risk and security level of each incoming prisoner ensures that the organization has the information it needs on each individual which would ensure that any disruptive behaviour could be anticipated which would allow prison managers to deploy staff quickly to those areas that require more attention. There are different kinds of risks (e. g., risk of escape, risk of harming other prisoners, harming themselves or harming prison staff). Separating the low, medium and high-risk offenders is typically used as a means of effective prison management. Sometimes, an individual with a low risk assessment can later become a higher risk and may have to be moved. It is important that individuals are assessed on a constant basis and an effective way to do this is through relationships built between the prison staff and the prisoners.

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

Physical restraints such as handcuffs, chains, irons and strait jackets are easy ways to control unruly prisoners and in this regard prison staff will find it easier to use such restraints especially when moving or transporting prisoners from one place to another. The restraints should be removed as soon as the prisoners have been secured in their final destination.

If prisoners are accused of bad conduct or a crime, then a fair way of proceeding with the investigation should be found by the prison manager. Prisoners should be given a chance to explain their behaviour (they should have access to legal representation if possible) and the appropriate evidence or witness should be presented to avoid any wrongful accusations.

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

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

Establishing relationships between prisoners and prison staff is, in some parts of the world, called "dynamic security" and the basis of this idea is that engaging with prisoners and getting to know them will enable staff to anticipate and better prepare themselves for any incidents that would threaten the security of the prison. Where the ratio of staff and prisoners is high and where staff remain in particular positions for a length of time relationships with prisoners is easier to establish. Another factor is the attitude and training of the staff themselves. It is not an easy line between engaging with a prisoner and being friendly and staff have to be very clear in their own minds as to how to approach prisoners. They must be, at all times, very alert and aware of what is going on among prisoners as security and safety must never be compromised.



Activities: Questions for Discussion

1. What difficulties would you foresee encountering in the applications of standards relating to safety and security?
2. What are the most common ways used to control disruptive individuals in your prison?
3. What are the standing orders for dealing with disruptive or difficult prisoners? How are such prisoners dealt with in practice?
4. What is the attitude of prison staff to prisoners?
5. How well do the staffs know individual prisoners?
6. What is the greatest training need for prison staff in terms of security?
7. How are internal investigations on prisoner incidents carried out?
8. Do you have an incident response protocol?
9. Do you have an incident reporting system?
10. Are sentenced prisoners classified according to the risk they pose to society and others in prison?
11. Is care taken that the security conditions imposed on prisoners are the minimum necessary?



Recapitulation

1. The safety, security, good order and control within any prison is the prison manager's first objective. This objective ensures the safety and security of society outside the prison. It is essential to reconcile these objectives with the obligation to respect the human rights of prisoners.
2. Clarity about which control measures are permitted and which are not, clarity about which kinds of punishments are acceptable and which kinds are inhumane and degrading is important for all prison staff to be trained in and to understand. All security procedures should be in writing and they should be verbally communicated to staff on a regular basis in order to remind them.

Chapter 10

Vulnerable Prisoners

Highlights

In this module, participants will learn about four special categories of prisoner; women prisoners; mentally ill prisoners; foreign prisoners; and prisoners under sentence of death. Children are also considered a vulnerable group but they will be addressed in a separate chapter of this manual.

Objectives

The objectives of this module are:

1. To recognize the relationship between these prisoner categories and relevant international instruments
2. To highlight some of the special prison needs that are required to meet the challenges of these four different prisoner categories
3. To identify some of the “category specific” prisoner needs of the respective categories
4. To identify issues, challenges and remedies to enhance the prison routine for these vulnerable categories

Learning Outcomes

At the end of this session, participants will:

1. Be familiar with the importance of differential prison management approaches for these four categories of prisoner;
2. Be familiar with the relationship between these prisoner categories and the relevant international instruments; and,
3. Have identified issues, challenges and remedies to enhancing the prison routine for these prisoner categories as it relates to the reality of the Southern Sudan.

Participants will understand the special measures that must be taken to protect the rights of vulnerable offenders, including: women prisoners; mothers and their infants; foreign prisoners; mentally disabled; prisoners on death sentence; elderly prisoners; and, chronically ill prisoners.

Discussion

Women 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 SMRs apply to women. In addition, women have other special needs.

Life and Long Term Prisoners

The term “life sentence” means different things in different States. States impose life sentences for a different range of offences. Only in exceptional cases does a person spend the rest of his or her natural life in prison. In most countries, life imprisonment represents the most severe penal sanction that can be imposed other than the death penalty or lashings.

Those sentenced to a life sentence have likely committed terrible crimes and they may or may not be dangerous. Because of their sentence, those prisoners are more likely to want to escape than others with shorter sentences and therefore are likely to pose a greater threat in terms of escaping. Prison authorities have to find a way to manage those prisoners in such a way as to ensure they do not escape while making sure they are treated humanely. Locking these prisoners up in cells all day or keeping them in chains to prevent them from escaping is does not amount to humane treatment and should not be overused.

The Mentally Ill Prisoner

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. 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.

Prisoners under Sentence of Death

While many countries no longer have the death penalty, capital punishment still remains a form of punishment in several countries. International standards encourage countries to abolish the death penalty.

Elderly Prisoners

One consequence of the increase in the length of sentences in some jurisdictions is that prison administrators are having to respond to the needs of growing numbers of elderly prisoners. In some jurisdictions the recent trend towards mandatory life or long sentences has led to a significant increase in prisoners who will become old in prison. This may require the provision of a range of specialist accommodation to deal with the problems arising from a loss of mobility or the onset of mental deterioration. Attention needs to be given to the different problems, both social and medical, of this group of prisoners.

Foreign Prisoners

Foreign prisoners are vulnerable by often not being able to speak the local language, not being familiar with local food, not having relatives or friends nearby or able to visit them easily. The consulate of country of their citizenship should be informed of their situation and be able to visit them in prison in order to offer assistance.

⇒ Relevant International Instruments

The primary international instruments that are relevant to this module are the following:

- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Convention on the Elimination of All Forms of Discrimination against Women
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- Standard Minimum Rules for the Treatment of Prisoners
- Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa – The Robben Island Guidelines
- UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Healthcare,
- UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty,
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- International Covenant on Civil and Political Rights
- Convention on the Rights of the Child
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Prevention and Punishment of the Crime of Genocide
- Basic Principles for the Treatment of Prisoners

Some Practical Applications of the International & Regional Instruments

The following references when translated to practical realities support differential management approaches to meet the needs of these four

categories. The practical application or implementation of appropriate policies consistent with the referenced articles and principles below will contribute to an enhanced “human rights approach to prison management”.

Article 2 of the Universal Declaration of Human Rights reads in part:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

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

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

(a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate.

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

23. (1) In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

(2) Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

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

53. (1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.

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

(3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.

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

82. (1) Persons who are found to be insane shall not be detained in prisons and

arrangements shall be made to remove them to mental institutions as soon as possible.

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

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

(4) The medical or psychiatric service of the penal institutions shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.

83. It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric after-care.

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

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

Article 9 of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty reads: Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering.



Activities

Participants will be divided into four groups. Each group will be assigned a specific prisoner category. The four groups will be challenged via a gap analysis exercise to; identify the strengths in their current correctional system in relation to the respective categories; identify the weaknesses; and recommend potential solutions to the identified shortcomings.



Recapitulation

The main points to be reviewed will be:

1. The framework of international instruments that identify specific requirements in relation to these four prisoner categories;
2. To highlight both the prison and prisoner needs in respect of these four categories

3. The critical role that the prison must play in providing differential approaches to the management of these four categories
4. The strengths, weaknesses and possible solutions to the identified shortcomings that will contribute to the humane management of these four prisoner profiles.

Chapter 11

Children and Youth in Prison

Highlights

The fundamental message of this module is that young people (children or juveniles or persons under the age of 18 as defined by bodies of the United Nations) should not be imprisoned whenever possible. Young people are in their formative years, they may not understand the full consequences of their actions. They are more vulnerable than adults, and so they can still be guided and taught to live useful and productive lives. Putting them in prison would destroy any hope of them achieving that. They can still learn from their mistakes and make changes to the way they behave and therefore should be given a chance to do so outside the prison context.

Objectives

The objectives of this module are:

1. To examine the situation of youth prisoners in Southern Sudan
2. To profile children in conflict with the law in Southern Sudan
3. To establish the priorities of a youth justice system for Southern Sudan
4. To examine the status and conditions of children of prisoners

Learning Outcomes

At the end of this session, participants will:

1. Have elaborated on the situation of youth prisoners in Southern Sudan
2. Have described the profile of children in conflict with the law in Southern Sudan
3. Have mapped out the elements of a future youth justice system for Southern Sudan

4. Have gain a better understanding of the status and conditions of children of prisoners

😊 Discussion

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.

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 SMRs apply to juvenile offenders in institutions, and that these rules should be implemented “to the largest possible extent so as to meet the varying degrees of juveniles specific to their age, sex and personality”.

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

★ Issues and Challenges

1. It is sometimes difficult to determine the age of a child if they are orphaned or born in areas where birth records do not exist. If the child does not know their own age it is then up to the authorities to estimate the child's age and record that number at the time of admission.
2. Status offences such as vagrancy are crimes in many countries and children are simply taken to a detention centre and withheld for long periods of time with no proper procedures to determine what to do with that child. Status offences should not be the basis for incarceration. Prison should not be a solution to "street children". Many countries do not have a youth justice system and many youth remain in prison until they reach adult status.
3. Special attention should be given to those between the ages of 18 and 21 as they are in a transitional stage of their life. They should not be automatically transferred to an adult facility at the age of 18.
4. Because of their lack of skills, youth should be directed to educational homes or centres to assist them with proper reintegration into society. Prisons can sometimes work effectively with non-governmental organizations and other community groups.

⇒ **Relevant International Standards**

International law in the area of juvenile justice is substantial and detailed. The primary child rights instruments are the Convention on the Rights of the Child (1989), the UN Standard Minimum Rules for the Administration of Juvenile Justice (1985), the UN Standard Minimum Rules for the protection of Juveniles Deprived of their Liberty (1990), the UN Guidelines for the Prevention of Juvenile Delinquency (1990), and the UN Guidelines for Action on Children in the Criminal Justice System (1997). Other generally applicable instruments include the UN Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules), the UN Basic Principles on the use of Restorative Justice Programmes in Criminal Matters, The UN Standard Minimum Rules for the Treatment of Prisoners, the Convention against Torture, and the Optional Protocol to the Convention against Torture. At regional level, the African Charter on the Rights and Welfare of the Child contains specific juvenile justice provisions.

Convention on the Rights of the Child

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

United Nations Standard Minimum Rules for the Administration of Juvenile Justice

13. Detention pending trial

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

13.2 Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home.

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

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

13.5 While in custody, juveniles shall receive care, protection and all necessary individual assistance-social, educational, vocational, psychological, medical and physical-that they may require in view of their age, sex and personality.

United Nations Standard Minimum Rules for the Administration of Juvenile Justice

19. Least possible use of institutionalization

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

United Nations Standard Minimum Rules for the Administration of Juvenile Justice

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

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

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

United Nations Standard Minimum Rules for the Administration of Juvenile Justice

29. Semi-institutional arrangements

29.1 Efforts shall be made to provide semi-institutional arrangements, such as half-way houses, educational homes, day-time training centres and other such appropriate arrangements that may assist juveniles in their proper reintegration into society.

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

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

Practical application of international standards

1. In practice, because of the costs involved, it may not always be feasible to have a juvenile correctional facility. However it would still be possible to keep juveniles in separate cells and in different parts of the building.
2. Prison guards may not be properly trained to care for juvenile offenders who need special attention based on their age, gender and vulnerable situation.
3. Juveniles should be allowed as many visits from their family members as possible. Family ties are important in dealing with

juveniles and the prison authorities should make such family visitations a priority.

4. Because juveniles have special needs as they are not yet mature nor fully grown nor fully understand what is happening to them, it would be advisable for prison officials dealing with them to also be in contact with outside organizations such as the ministry responsible for children or education or health. Contact should also be made with non-governmental organizations which could be of assistance with education or psychological counselling.



Activities: Questions for Discussion

1. Discuss the situation of youth prisoners in Southern Sudan – how many, where are they imprisoned, how are records kept?
2. What is the typical profile/background of children in conflict with the law in Southern Sudan?
3. What would a juvenile justice system for Southern Sudan look like? What would be a model?
4. What happens to the children of female prisoners? Do they mostly stay with the mother in prison or are they separated from their mother?



Recapitulation

1. Juveniles do not belong in prison. Prison should only be used as a last resort and only in very necessary cases and then only for the shortest period possible. Alternatives to incarceration are better applied to juveniles because they are young and have a greater capacity to change their behaviour and learn how to avoid committing crimes; they are also more able to learn new skills and increase their educational level.
2. Juveniles in prison are not only entitled to all the same human rights that are afforded to adults but they are entitled to additional special human rights because of their age, gender and personality.
3. Juveniles should always be kept separately from the adult prisoners to ensure their safety and protection.
4. Contacts with family and community organizations are especially important for juveniles in prison and prison authorities should make special allowances for regular visitations.

Chapter 12

Alternatives to Imprisonment

Highlights

In this module, participants will learn about non custodial sanctions that are available in numerous international jurisdictions. The sanctions can be alternatives to imprisonment at the time of sentencing, alternatives to remand in custody or as early release options following a period of imprisonment. Alternatives to imprisonment can help address issues of prison overcrowding. There is a proposal for a new Child Rights Bill in Southern Sudan which contains provisions for the use of diversion from criminal justice system in the case of juvenile offenders. Juveniles offenders may offer a good starting point in Southern Sudan for the introduction of new community-based alternatives to imprisonment.

Objectives

The objectives of this module are:

1. To identify various community-based alternatives to imprisonment, based on international best practices;
2. To recognize the relationship between these alternatives and the relevant international standards;
3. To review the applicability of some of these potential alternatives to the context of Southern Sudan;
4. To identify operational or cultural issues or impediments to introducing or enhancing these alternatives; and,
5. To consider strategies to introduce or enhance the effectiveness of these alternatives in Southern Sudan.

Learning Outcomes

At the end of this session, participants will:

1. Be aware of the range of alternatives that can be made available at the time of sentencing and as an early release option following a period of imprisonment;
2. Have identified issues and impediments to enhancing or introducing these alternatives; and,
3. Have identified potential strategies to enhance the use of these alternatives in Southern Sudan.

Discussion

Imprisonment has several objectives. It keeps persons suspected of having committed a crime under secure control before their guilt or innocence is determined by a court. It punishes offenders by depriving them of their liberty after they have been convicted of an offence. It keeps them from committing further crimes while they are in prison and, in theory, allows them to be rehabilitated during their period of imprisonment. The goal of rehabilitation is to address the underlying factors that led to criminal behaviour and by so doing, reducing the likelihood of re-offending. However, it is precisely this objective that is generally not being met by imprisonment. On the contrary, evidence shows that prisons not only rarely rehabilitate, but also tend to further criminalize individuals, leading to re-offending and a cycle of release and imprisonment, which does nothing to reduce overcrowding in prisons or to build safer communities.

Overcrowding can be decreased either by building new prisons or by reducing the number of people staying in them. Practice shows that trying to overcome the harmful effects of prison overcrowding through the construction of new prisons does not provide a sustainable solution.

Indeed, a number of European countries have embarked on extensive programmes of prison building, only to find their prison populations rising in tandem with the increased capacity acquired by their prison estates. In addition, building new prisons and maintaining them is expensive, putting pressure on valuable resources. Instead, numerous international instruments recommend a rationalization in sentencing policy, including the wider use of alternatives to prison, seeking to reduce the number of people being isolated from society for long periods.

In this context it is important to emphasize that alternatives on their own will have relatively little effect on the size of the prison population. In order to meet the objective of reducing the number of prisoners, comprehensive reform of criminal legislation needs to be undertaken and sentencing practices need to be changed. Measures that can be introduced include decriminalizing certain acts, providing shorter terms of imprisonment for

selected offences, in addition to introducing a wide range of non-custodial sentences as an alternative to prison and widening possibilities for parole (conditional release).

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

International human rights instruments emphasize that detention or imprisonment should be imposed only as a last result. In all other cases, the use of non-custodial measures is recommended. In some countries, the same authority is responsible for prisons and also for the care and supervision of offenders who are sentenced to non-custodial penalties. It may also happen that a person who has completed part of his or her sentence in prison will be eligible to complete the sentence under some form of conditional release in the community.

Types of Alternative Sanctions:

Fines: Used widely. It has the disadvantage that many people cannot afford the fines prescribed and may therefore be imprisoned.

Compensation: In some countries instead of a fine the court obliges the convicted offender to pay a certain amount of money to the victim as compensation.

Probation or judicial supervision: The arrangement for the convicted offender to continue to live in the community under the supervision of a judicial authority, probation service, or other similar body. It can involve requiring the offender to attend certain courses, therapy or treatment programmes.

Suspended sentences, (with or without supervision): A sentence is passed and recorded, but suspended for a specific length of time, during which the convicted person must not commit any further offences. In many countries a suspended sentence is combined with supervision by a probation service or other similar body.

Deferred sentence: A decision is taken not to pass sentence on condition that the offender undertakes some action, such as undergoing treatment for alcoholism, drug addiction or receiving psychological counsel. Depending on the result, the offender may not receive a sentence.

Removal of certain rights: Restrictions are placed on certain rights, such as the right to take up certain types of employment, to occupy specific positions in government or to travel to certain places.

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

Referral to an attendance centre: The court can direct the offender to spend a set period of hours each day in an attendance centre for a certain period of time. The attendance centre is meant to offer a structured programme for offenders to address their offending behaviour in a group environment.

Community service: Community service is work done without compensation, usually for an agency or organization for the benefit of the community. The judge may order community service in lieu of a term of imprisonment.

★ Issues and Challenges

The range of alternatives referenced above play a critical role internationally in contributing to community safety while at the same time not contributing to an over reliance on imprisonment as the only court sanction.

- ❑ What non custodial sanctions would be appropriate in the Southern Sudan at the time of sentencing? For what offences?
- ❑ Who would be responsible for ensuring the offenders' compliance with community sanctions? What role would the police play in these processes?
- ❑ What role does the prison play in the preparation of a prisoner for his or her release from prison? What forms of early release from prison are currently available? What forms could be safely implemented?
- ❑ Who is or should be responsible for the smooth transition of the prisoner from the prison to the community? What community agencies need to be involved? Is there a role for volunteers?

⇒ Relevant International Standards

The primary international instruments that are relevant to this Module are the following:

- United Nations Standard Minimum Rules for the Treatment of Prisoners

- United Nations Standard Minimum Rules for Non-Custodial Sanctions
- Basic Principles for the Treatment of Prisoners
- African Charter on Human and Peoples' Rights
- 2002 Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa – The Robben Island Guidelines

The following references when translated to practical realities support the need for prison alternatives as highlighted above.

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

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

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

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

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

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

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

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

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

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

enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners.

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

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

Article 5 of the African Charter on Human and Peoples' Rights reads:

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.



Activities

Participants will be asked to identify culturally appropriate sentencing alternatives and early release options that could be introduced in Southern Sudan. For both the sentencing alternatives and the release options the participants will be requested to identify key agencies or group that could be involved and identify their respective roles in successfully implementing the non-custodial measures.



Recapitulation

The main points to be reviewed are:

1. The importance of both non custodial sentencing alternatives and early custodial release options;
2. The international acceptance of these alternatives as highlighted by the referenced international instruments; and,
3. The critical role that the prison must play in the safe return of the prisoner to the community.

Chapter 13

Oversight Mechanisms

Highlights

In this module, participants will learn about prisoner redress and prisoner complaint systems and procedures. Participants will also learn about internal and external oversight mechanisms, such as inspections, investigations and external independent reviews.

Objectives

The objectives of this module are:

1. To identify the importance of prisoner complaint processes and procedures that are fair and understood by all relevant parties;
2. To recognize the importance of internal and external inspections as they relate both to individual prisoners and when required in relation to prison incidents;
3. To review existing prisoner complaint, internal and external oversight systems in relation to the expectations highlighted in the applicable international instruments;
4. To identify issues, challenges and remedies to introducing or enhancing the prison routine as it relates to prisoner complaints and internal investigations and inspections; and,
5. To identify issues, challenges and remedies to introducing or enhancing the role of an external prison investigator/inspector.

Learning Outcomes

At the end of this session, participants will:

1. Be familiar with the importance of prisoner complaint processes and procedures that are fair and understood by all relevant parties;

2. Be familiar with the importance of internal and external inspections as they relate both to individual prisoners and when required in relation to prison incidents;
3. Be aware of the prisoner complaint, internal and external oversight systems in relation to the expectations highlighted in the applicable international instruments;
4. Have identified issues, challenges and remedies to the introduction or enhancement of the prison routine as it relates to prisoner complaints and internal investigations and inspections in the Southern Sudan; and,
5. Have identified issues, challenges and remedies to the introduction or enhancement of the role of an external prison investigator/inspector as it relates to the reality of the Southern Sudan.

😊 **Discussion**

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

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

Prisoner Complaint Process

Prisoners are expected to obey the rules and procedures within a prison but sometimes they may have complaints either against individual staff members or the way things are being done in the prison. In many countries, prisoners simply do not complain since this may well mean they may have to face angry guards or a punishment of some kind. In countries where it is possible for prisoners to make complaints that will be heard, it is important that there be a clear set of procedures for the complaints procedure.

It is important that those procedures allow prisoners to register any complaints which they have. 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 and it should be made clear that the prisoner will not be punished for raising complaints.

Inspections

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

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

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

☆ **Issues and Challenges**

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

1. At what level in the prison hierarchy should the prisoner make his complaint? Who should be involved in attempting to resolve the complaint?
2. What forms of prisoner complaint should involve an external review? Who should be involved?
3. What types of incidents should be investigated and by whom? If reports are completed, who is responsible for responding to them? Are the reports made public? Who is responsible for follow up?
4. Should there be some form of oversight that is independent of the prison administration? Of the responsible Government Ministry? Who should this person or entity report to?

⇒ **Relevant International Standards**

The following are the primary international and regional instruments that are consistent with this module:

- Universal Declaration of Human Rights;
- International Covenant on Civil and Political Rights;
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- International Covenant on Economic, Social and Cultural Rights;
- Standard Minimum Rules for the Treatment of Prisoners;
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;
- Basic Principles for the Treatment of Prisoners; and,
- Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa – The Robben Island Guidelines

Upon review of the consistent messages that appear below it is readily evident that their practical application translates into ensuring that an effective and transparent prisoner complaints system is available. The

instruments also highlight the need to ensure the availability of both internal and external prison inspection and oversight systems.

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

Each State party to the present Covenant undertakes:

- (a) to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (b) to ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (c) to ensure that the competent authority shall enforce such remedies when granted.

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

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

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

- (1) Every prisoner shall have the opportunity each week day of making requests or complaints to the director of the institution or the officer authorised to represent him.
- (2) It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present.
- (3) Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.
- (4) Unless it is evidently frivolous or groundless, every request or complaint shall be

promptly dealt with and replied to without undue delay.

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

17. Ensure the establishment of readily accessible and fully independent mechanisms to which all persons can bring their allegations of torture and ill-treatment.

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

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

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

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

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

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

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

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

38. Ensure and support the independence and impartiality of the judiciary including by ensuring that there is no interference in the judiciary and judicial proceedings, guided by the UN Basic Principles on the Independence of the Judiciary⁴;

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

40. Establish and support effective and accessible complaint mechanisms which are independent from detention and enforcement authorities and which are empowered to

receive, investigate and take appropriate action on allegations of torture, cruel, inhuman or degrading treatment or punishment.

41. Establish, support and strengthen independent national institutions such as human rights commissions, ombudspersons and commissions of parliamentarians, with the mandate to conduct visits to all places of detention and to generally address the issue of the prevention of torture, cruel, inhuman and degrading treatment or punishment, guided by the UN Paris Principles Relating to the Status and Functioning of National Institutions for the Protection and Promotion of Human Rights;

42. Encourage and facilitate visits by NGOs to places of detention.

43. Support the adoption of an Optional Protocol to the UNCAT to create an international visiting mechanism with the mandate to visit all places where people are deprived of their liberty by a State Party.

44. Examine the feasibility of developing regional mechanisms for the prevention of torture and ill-treatment.



Activities

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

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



Recapitulation

The main points to be reviewed will be:

1. The importance of establishing an effective prisoner complaint processes and adopting procedures that are fair and understood by all relevant parties
2. The importance of internal and external inspections as they relate both to individual prisoners and when required in relation to prison incidents
3. The relevance of the applicable international standards

4. Issues identified related to the challenges of enhancing existing prison routines relating to prisoner complaints and internal investigations
5. Issues identified relating to the challenges of introducing an external prison inspection system or enhancing the existing system

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