

Monitoring places of detention: a practical guide for NGOs



ABOUT THE ASSOCIATION FOR THE PREVENTION OF TORTURE

Founded in 1977 by Jean-Jacques Gautier and based in Geneva, Switzerland, the Association for the Prevention of Torture (APT) is an independent non-governmental organisation committed to prevent torture and ill-treatment. The APT supports national implementation of standards that prohibit torture and develops training material and activities for professional in contact with detainees. Its specificity lies in the promotion of preventive control mechanisms such as visits to places of detention. At the international level, the APT is thus at the origin of the European Convention for the Prevention of Torture as well as the Optional Protocol to the United Nations Convention against Torture. This latter text combines visits by an international body and by a national visiting mechanisms. The APT also promotes visits at the national level, by institutions such as ombudsperson or special visiting bodies, or by the civil society.

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ABOUT THE OSCE OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS (ODIHR)

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's main institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

Based in Warsaw, Poland, the ODIHR provides assistance to democratization processes, observes elections, and monitors human rights developments. The Office's democratization activities include some 100 targeted assistance programmes in the following six thematic areas: rule of law, civil society, freedom of movement, gender equality, trafficking in human beings and anti-terrorism.

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EDITOR'S NOTE

For a quarter of a century, the Association for the Prevention of Torture (APT) has defended the simple but new idea proposed by our founder Jean-Jacques Gautier, that visits to places where people are deprived of their liberty is one of the most effective ways of preventing torture and ill-treatment. The APT was thus at the origin of the European Convention for the Prevention of Torture, adopted by the Council of Europe, which established a Committee of the same name empowered to visit, at any time, any place where a person is deprived of his or her liberty in any State Party to the Convention. It is also at the origin of the Optional Protocol to the United Nations Convention against Torture and was actively involved, over the past ten years, in the negotiations pertaining to this protocol. The text was finally adopted by the UN General Assembly in December 2002. International mechanisms of these kinds play a crucial role in the fight against torture. They are, however, not sufficient.

This is why it is essential that the work of international mechanisms be complemented by visits at the national level. The importance of external independent monitoring at the national level is increasingly being recognised and accepted. The text of the Optional Protocol to the UN Convention against Torture also contains the obligation for State Parties to “set up, designate or maintain at the national level one or several visiting bodies”. Different independent actors have been able to conduct unannounced visits to places where persons are deprived of their liberty: ombudspersons, parliamentary commissions and special visiting bodies. But civil society and in particular national NGOs should also be recognised as necessary watchdogs.

In a number of central European countries, national NGOs have been able to set up visit programmes. The APT and the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) consider that

the experience of these organisations in designing and implementing such programmes could be of use to others. This is why our two organisations decided to launch a project aimed at encouraging national NGOs to carry out visits to places of detention. The first part of the project involved the organisation of a workshop with representatives from 10 national NGOs from Central and Eastern Europe which are running such monitoring programmes. The workshop was held in Chisinau, Moldova, on 10 and 11 July 2000 (see participants in Annex 3, under national NGOs). The second part of this joint project is the publication of the present guide, which is in part based on the discussions in Chisinau.

The guide was written by Ms Annette Corbaz, consultant for the APT, who possesses more than 10 years' experience in visiting places of detention with the International Committee of the Red Cross. We would like to thank her for her commitment in the writing of this guide and thank also Ms Julia Bassam de la Barrera for her excellent translation into English. We would also like to extend our thanks to Mr Gerald Staberock, ODIHR Rule of Law Officer, for his involvement and continuous support in the realisation of this project as well as Mr Krassimir Kanev, of the Bulgarian Helsinki Committee, for his pertinent comments on the first draft. Finally, this guide also constitutes a form of recognition of the work carried out by the national NGOs that participated in the Chisinau work-shop and it should encourage them to continue their important activity. It is our hope that it will be of help to other NGOs and that some of them will be able to start monitoring programmes in their own countries, thus contributing to opening the doors of the closed world of detention and "to replacing the paradigm of opacity by one of transparency".

BARBARA BERNATH

APT Programme Officer for Europe

FOREWORD

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has over ten years experience working to promote democracy and human rights in the OSCE region. During this time the reform of prisons and places of detention has been one of the Office's main focuses.

Places of custody are particularly sensitive and critical from a human rights perspective because they are naturally environments where human rights are at particular risk. Therefore prison reform and the status of prisons are issues of concern in any democratic society for the professionals involved and for civil society as a whole. These considerations, which form the basis of the ODIHR's work in this field, are also relevant for the APT's Guide on Monitoring Places of Detention.

International human rights standards regarding prisons and places of detention have been further developed and refined over the past years. In the OSCE context, numerous commitments have been agreed upon to prevent torture and ill-treatment of those in custody. Increasingly, the focus has been shifted on what needs to be done to close the gap in the domestic implementation of international law.

Public monitoring boards, human rights advisory councils or systematic professional civil society monitoring can be useful tools of observation and data collection, and, thus, ultimately contribute to improved adherence to international standards. Moreover, it is worth noting that civil society monitoring, apart from playing an important role in safeguarding against human rights abuses, also acts as a fertiliser for democratisation, by demanding accountability and transparency by all state institutions, including places of custody. Therefore, civil society monitoring of prisons and places of detention should be an integral part of the democratic process. However, it

should not be a substitute for the obligation of the state to engage in official oversight of places of custody to ensure compliance with human rights standards.

Civil society monitoring has developed in a wide range of countries throughout the past ten years. In particular, in Central and Eastern Europe the introduction of monitoring boards alongside the traditional state institutions has contributed considerably to the demilitarisation of penal and pre-trial detention systems as well as to raising public awareness of the importance of a torture-free and accountable prison regime for successful democratisation.

The ODIHR commends the Association for the Prevention of Torture (APT) for its developing and publishing this invaluable Guide. The ODIHR and the APT work together with the goal of fully eradicating torture. The two organizations share the commitment to encourage the involvement of civil society in the monitoring of prisons and places of detention as it is our strong belief that only through the involvement of civil society this goal can be attained. By enabling civil society monitors to further develop their methodology, we hope that this Guide will ultimately contribute to the improvement of conditions in prisons and places of detention.

Warsaw, November 2002

AMBASSADOR GÉRARD STOUDMANN

Director of the ODIHR

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INTRODUCTION

“The Special Rapporteur is convinced that there needs to be a radical transformation of assumptions in international society about the nature of deprivation of liberty. The basic paradigm, taken for granted over at least a century, is that prisons, police stations and the like are closed and secret places, with activities inside hidden from public view. (...) What is needed is to replace the paradigm of opacity by one of transparency. The assumption should be one of open access to all places of deprivation of liberty.”

Sir Nigel Rodley,

United Nations Special Rapporteur on Torture
3 July 2001, A/56/156, §35

Transparency and public control of the administration form part of any system based on the principles of democracy and rule of law. This is especially true in the case of monitoring the power of the State to deprive people of their liberty. Monitoring at the national level the treatment and conditions of detention of persons deprived of their liberty through unannounced and regular visits is one of the most effective means to prevent torture and ill-treatment. Such monitoring should not be limited to national independent institutions, but non-governmental organisations (NGOs) should also be able to have access to places where persons are deprived of their liberty.

Access, however, is only the beginning of the monitoring process. NGOs which would like to start a monitoring programme should be aware of what this actually involves. This is why the Association for

the Prevention of Torture (APT) and the Office for Democratic Institutions and Human Rights (ODIHR) decided to publish a guide specifically aimed at showing NGOs how to set up a monitoring programme.

This guide is really intended to give concrete advice and recommendations for all the various stages of the setting up of such an activity. The first part contains a general introduction on the importance of monitoring conditions of detention. Parts I and II are more particularly devoted to the question of designing and then implementing a monitoring programme of places of detention. Finally, the last part presents and comments upon the existing international standards, theme by theme, which embody all the elements that should be looked at during a visit. In Annex I, a checklist of such elements is presented.

The guide provides general and indicative information for NGOs on monitoring places of detention and does not intend to be exhaustive. It is above all intended as a practical tool, giving advice, asking questions, and providing references to international standards. While it is primarily meant for organisations which are not yet visiting places of detention, it can also be useful to those already doing so regularly.

PART I

**Monitoring
conditions
of detention**

1. INTRODUCTION

THE PROTECTION OF PERSONS DEPRIVED OF THEIR LIBERTY

Monitoring detention conditions forms an integral part of the **system for protecting persons who are deprived of their liberty**. Any State that is concerned with ensuring that human rights are respected in this field should possess, or establish, a system of this kind.

The protection of persons deprived of their freedom can be ensured by:

1. a national legal framework which has integrated the protection standards established by international law: that is, the adoption of corresponding laws and regulations which provide the framework for government policies and directives.

2. effective implementation of this legal framework in the maintenance of law and order, in legal practice, and in the organisation and handling of persons deprived of their liberty. This involves:

- a clearly stated and widely disseminated political will to implement the legal framework;
 - human resources trained according to sound codes of professional ethics;
 - financial and material resources.
-

3. monitoring the effective application of the legal framework by:

- internal inspection services;
- judicial control by judges, prosecutors;
- official monitoring bodies which are independent of the authorities;
- non-governmental organisations;
- the media.

This monitoring helps to provide an overview of the work carried out by State bodies and to identify any measures which should be taken at either the practical or the legal level.

Monitoring is thus an essential element in the dynamic process of setting up and maintaining a protection system for persons deprived of their liberty as defined above.

2. DEPRIVATION OF LIBERTY AND CONDITIONS OF DETENTION

2.1. What is meant by deprivation of liberty?

A person can be deprived of his or her liberty by a judicial, administrative, or medical measure. In the case of judicial measures, the detention place and regime¹ will depend on the stage in the penal process and the nature and gravity of the charges against the person concerned.

Table 1 below shows the different types of deprivation of liberty² and their main characteristics according to the authority in charge and the type of place of detention.

This description is indicative and not intended to be valid for all systems.

2.2. What is meant by conditions of detention?

Conditions of detention cover all aspects of the life of persons deprived of their liberty. These aspects are interdependent and must be examined in relation to each other:

- the legal and administrative measures set and applied with a view to protecting the person, guaranteeing his or her right to life and physical and psychological integrity;
- the legal and administrative measures of appeal available so that persons can make themselves heard and play a role in deciding their own fate;
- the living conditions during detention;
- the regime of detention (activities, contacts with the outside world);
- access to medical care;
- the organisation and handling of persons deprived of their liberty by the detaining authorities and public officials assigned these tasks.

2.3. What is meant by monitoring conditions of detention?

Monitoring involves the regular examination of all aspects of detention of all or certain categories of persons deprived of their freedom in one or more places of detention.

It includes the oral or written transmission of the results of the examination to the authorities concerned and, in some cases, to other players involved in the protection of persons deprived of their liberty at the national and international levels, and to the media.

1 The detention regime is defined mainly by the intensity of the security measures which are applied to persons de-privèd of their liberty and determine their access to the outside world and the organisation of their daily lives.

2 Persons deprived of their liberty in the context of an international or non-international armed conflict are not considered here, that is: prisoners of war and similar detainees as well as civilian nationals of a foreign power who are interned in relation to the conflict.

TABLE 1 : DIFFERENT TYPES OF DEPRIVATION OF LIBERTY

TYPE OF DEPRIVATION OF LIBERTY	DETAINING AUTHORITY	PLACE OF DEPRIVATION OF LIBERTY	CHARACTERISTICS
Holding in custody before charges	Police and security forces	Cells in police stations, security force stations	<ul style="list-style-type: none"> • The first place of detention after arrest; • Detention there must be of short duration, between 24 and 48 hours; • Those deprived of their liberty have limited access to the outside world; • These are generally places where interrogations are held; • The conditions of detention are often the most basic here; • An emotionally very difficult stage of detention for those experiencing it; • The risks of abuse against people deprived of their liberty—torture, ill-treatment and humiliating and degrading treatment—are very high during this phase of detention if the system of protection, as described above, is deficient.
Holding in custody after charges and before trial (pre-trial detention)	The penal administration, which generally depends on the Ministry of Justice, more rarely on the Ministry of the Interior	<ul style="list-style-type: none"> • Custody facilities—the exact name varies from country to country ; • Sections reserved for persons remanded in custody, in prisons for convicted detainees 	<ul style="list-style-type: none"> • Persons in pre-trial detention are waiting for a court to try them and give a verdict on their case; it is a period of psychologically painful uncertainty, all the more so if the persons concerned are not informed regularly of how their case is progressing; • The penal regime applied to them is in practice often more restrictive than that applied to those who have already been convicted (contacts with the outside world, activities, etc.); • Pre-trial detention facilities are often over-crowded.

<p>Imprisonment (or serving a prison sentence after a definitive verdict has been passed)</p>	<p>The penal administration, whether independent or integrated into the Ministry of Justice</p>	<ul style="list-style-type: none"> • Prisons for persons serving out their sentences—the exact appellation varies from country to country; • Sections in pre-trial detention facilities which can receive persons with short-term sentences. 	<ul style="list-style-type: none"> • The penal regimes governing the organisation and conditions of detention of the prisoners can vary depending on different factors such as the type and gravity of the offence or crime; • The regimes are: <ul style="list-style-type: none"> - high security; - progressive; - semi-open; - open. • They also depend on: <ul style="list-style-type: none"> - the doctrines on imprisonment as defined in legislation and their actual application by the penal administration; - staff numbers and their training; - the size of the establishment, etc.
<p>Administrative internment³</p>	<p>Ministry of the Interior or other</p>		<ul style="list-style-type: none"> • Persons deprived of their liberty by an administrative measure can be: <ul style="list-style-type: none"> - political detainees who are arrested or incarcerated without charges; - foreign nationals who entered a State's territory illegally and are awaiting an administrative decision regarding admission or expulsion. • The length of deprivation of liberty is not determined.
<p>Psychiatric internment</p>	<p>Ministry of Health</p>	<p>Psychiatric hospitals, specialised institutions, psychiatric hospitals in prisons</p>	<ul style="list-style-type: none"> • Persons who are ill or mentally handicapped are particularly vulnerable; • Persons can be interned non-voluntarily and as a matter of course in accordance with civil law or in the context of a criminal procedure.

3 Unlike pre-trial detention and imprisonment, which are penal measures, administrative internment is, in most countries, a measure taken by an administrative or political and not by a judicial authority.

3. THE IMPORTANCE OF MONITORING CONDITIONS OF DETENTION

Monitoring of detention conditions is absolutely necessary for various reasons:

- Depriving a person of his or her liberty is a serious act;
- Through the loss of liberty, the detained person comes to depend almost entirely on the authorities and public officials to guarantee his or her protection, rights, and means of existence;
- The possibilities for persons deprived of their liberty to influence their own fate are limited, if not non-existent;
- Places of detention are by definition closed; those detained find themselves outside the bounds of society and out of its sight.

At all times and in all places, **persons deprived of their liberty are vulnerable and at risk** of being mistreated and even tortured. This means that they must be afforded enhanced protection by monitoring their conditions of detention.

It should be noted that the fact that monitoring mechanisms have been integrated into the permanent protection system for persons deprived of their liberty does not necessarily imply that there are serious problems in the places of detention or a widespread lack of confidence in the officials in charge.

It is more a matter of subjecting the huge power gap in detainer-detainee relations to outside scrutiny by a body empowered to intervene in cases of abuse of this power. These control mechanisms help limit the risk of ill-treatment and regulate any excessive measures taken against those deprived of their liberty.

3.1. Visits to persons deprived of their liberty in their place of detention—the main tool for monitoring conditions of detention

Conditions of detention are monitored essentially through visits to the places where persons are detained.⁴ These visits have a variety of functions:

- **preventive function:** The simple fact that someone from the outside regularly enters a place of detention in itself contributes to the protection of those held there. It means that external observation is accepted, or at least tolerated, by the detaining authorities, which recognise the usefulness of this protection mechanism;
- **direct protection:** *In situ* visits make it possible to react immediately to problems affecting the detainees which have not been dealt with by the officials in charge;
- **documentation:** During the visits, the material conditions of detention can be examined and their adequacy assessed; the information collected provides a basis for forming a judgement and documenting it and for justifying any corrective measures proposed.

The visits also provide an opportunity to document specific aspects of detention which could be dealt with in a thematic study;

- **support to detainees:** Direct contact with persons deprived of their liberty is, in itself, a form of moral support. The visits can also serve to identify and to cover material needs not being met by the authorities, or to provide individual legal aid;
- **basis for dialogue with the detaining authorities:** Visits make it possible to establish a direct dialogue with the authorities and officials in charge of the detention facility. This dialogue, in so far as it is founded on mutual respect, leads to the development of a

⁴ Information about the conditions of detention collected outside the places of detention can also be used as a basis for intervention in cases where these places are not accessible. Nonetheless, the validity and legitimacy of these interventions can be more easily contested than can those following *in situ* visits.

constructive working relationship, in which the points of view of the officials about their working conditions and any problems they might have identified can also be obtained.

3.2. Visiting mechanisms at the national level

Monitoring detention conditions is, above all, the responsibility of the national authorities in charge of persons deprived of their liberty. Thus, Principle 29, paragraph 1, of the United Nations “Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment” lays down: “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.”

Most States have established their own mechanisms for monitoring places of detention and incorporated them into their legislation and administrative regulations. In general, these are internal control mechanisms and are an integral part of the detention system. In an increasing number of countries, complementary external mechanisms also exist which seek not to supplant but to supplement the internal mechanisms.

The necessity to submit places of deprivation of liberty to external independent monitoring at the domestic level was recognised by the Optional Protocol to the United Nations Convention against Torture⁵. This text contains an obligation for States Parties to “maintain, designate or establish (...) one or several independent national preventive mechanisms for the prevention of torture at the domestic level.” (Art. 17). The text has been adopted by the United Nations General Assembly in December 2002 and will enter into force after the 20th ratification.

3.3. Monitoring detention conditions at the international level

That international organs can conduct visit to places of detention is a relatively recent development. The International Committee of the Red Cross was the first to receive such a mandate, in the context of armed conflicts, to visit prisoners of war. The international mechanisms established within the framework of the United Nations function essentially in a reactive manner, to verify allegations of torture or ill-treatment on the spot. Access is then subject to authorisation by the State. For the moment, only the European Committee for the

TABLE 2 : VISITING MECHANISMS AT THE NATIONAL LEVEL

INTERNAL MONITORING	EXTERNAL MONITORING	
	Legal basis in the constitution or in the law	Without legal basis, with specific authorisation
Permanent inspection and surveillance organs, internal to the administration, which carry out administrative control	Independent and specialised monitoring mechanisms: <ul style="list-style-type: none"> • Ombudsperson for prisons • National visiting bodies • Citizen-visitor organisations • National NGOs⁶ 	National NGOs
Magistrates who, as part of their functions, have the mandate and authority to carry out judicial control of detention and the conditions of detention	Independent and non-specialised control mechanisms: <ul style="list-style-type: none"> • Ombudsperson • Parliamentary committees 	International NGOs

5 The text was adopted by vote by the United Nations Human Rights Commission on 22 April 2002 (resolution E/CN.4/Res/2002/33), by the Economic and Social Council on 24 July 2002 and by the General Assembly in December 2002.

6 Certain States have included in their legislation the right for civil society to examine places where persons are deprived of their liberty.

Prevention of Torture can really be said to have access at any time to any place of detention in any State Party to the European Convention for the Prevention of Torture.

With the adoption of the Optional Protocol to the United Nations Convention against Torture, a Sub-Committee to the Committee against Torture will be established. It will be able to visit places where persons are deprived of their liberty in the States Parties. (see footnote 5).

4. THE INVOLVEMENT OF NATIONAL NGOS IN MONITORING CONDITIONS OF DETENTION: A NECESSITY

Why should non-governmental organisations be encouraged to become involved in monitoring conditions of detention, given that different types of control are already provided and, in theory, implemented at the national level?

The main reasons are as follows:

- Inspections/monitoring by the State of its own organs is necessary but, by definition, not independent;
- External control systems are not always effective, or are not frequent enough to fulfil their fundamental role as a regulating mechanism;
- The inspections are sometimes superficial; formal or bureaucratic aspects are given precedence over questions relating to the organisation and handling of the persons detained, which are more difficult to examine and more delicate to treat;
- The checks carried out by international bodies, while necessary, do not have the requisite character of permanence.

TABLE 3 : INTERNATIONAL VISITING MECHANISMS

TYPE	LEGAL BASE	CHARACTERISTICS
<i>Universal mechanisms</i>		
<p>UN Thematic Procedure</p> <ul style="list-style-type: none"> • Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; • Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions; • Working Group on Forced or Involuntary Disappearances; • Working Group on Arbitrary Detention 	<p>Resolutions of the United Nations Commission on Human Rights</p>	<ul style="list-style-type: none"> • Prior agreement by the State concerned; • Limited and one-off visits; • Recommendations issued on the basis of information communicated to the Rapporteur and verified, or following visits carried out in the country concerned; • Recommendations without binding character for States; • Public reports presented at the session of the Human Rights Commission.
<p>Committee against Torture</p>	<p>Article 20 of the Convention of the United Nations (1984)</p>	<ul style="list-style-type: none"> • Can only visit States Parties to the Convention; • Visits only in the case of “systematic torture”; • Authorisation by the State; • Confidential procedure.
<p>International Committee of the Red Cross</p>	<p>On the basis of the Geneva Conventions (1949) for situations of conflict; On the basis of an agreement with the State for other situations.</p>	<ul style="list-style-type: none"> • Monitoring of conditions of detention targeted at persons arrested and detained in relation with a situation of conflict. In certain situations, monitoring extends to other categories of persons deprived of their liberty; • In the situation of an international conflict, the States Parties to the conflict are obliged to authorise visits to military internees and civilian nationals of the foreign power involved in the conflict. In other situations, visits are subject to prior agreement by the authorities; • Permanent visits during the situation of conflict or its direct consequences; • Confidential reports.
<i>Regional mechanism</i>		
<p>European Committee for the Prevention of Torture</p>	<p>European Convention for the Prevention of Torture (1987)</p>	<ul style="list-style-type: none"> • Visits only to States Parties to the Convention; • Unlimited access: at any moment to any place where a person is deprived of his or her liberty; • Periodic and ad hoc visits (“required by the circumstances”); • Reports theoretically confidential, but their publication has become the rule

4.1. The advantages of national NGOs

As long as their action is governed by the principles of **independence**, competence, and ethics and their authorities grant them minimum guarantees to carry out their work under acceptable conditions, national NGOs possess strong advantages enabling them to make a constructive contribution to the protection of persons deprived of their liberty.

Their main advantages can be summarised as follows:

A permanent presence

- Protection of persons deprived of their liberty is a continuous process which must be pursued regardless of the country's social and political situation;
- National NGOs are in the best position to develop activities which are rooted in continuity;
- They potentially have the capacity to act and react rapidly—for instance, if serious incidents occur in detention facilities.

Knowledge of the environment

- They possess, or have ready access to, the social, political, and legal know-how to set up and run monitoring programmes to places of detention;
- They have, or can establish, developed networks of social contacts which enable them to follow closely the evolution of detention-related problems;
- They are in a position to identify the best communication strategies for alerting the authorities, the national media, and society in general to the problems linked to and resulting from the deprivation of liberty.

National NGOs can thus play a dual role: They keep a watchful eye on the functioning of State organs, on behalf of civil society, and they contribute actively to the maintenance or establishment of humane and decent conditions of detention which respect human rights.

Lastly, national NGOs can provide local support for awareness-raising activities and campaigns run by international and intergovernmental bodies working to protect and promote human rights.

4.2. Recommendations of international organisations

The importance of NGO involvement in monitoring conditions of detention is increasingly recognised by the international organs active in the field. Several international organisations have recently advocated access for national NGOs to places of detention.

“NGOs should be trained, encouraged and permitted to monitor places of detention including pre-trial detention”.

Organisation for Security and Cooperation in Europe, Supplementary Meeting on Inhuman Treatment, 27 March 2000, Vienna

“Regular inspections of places of detention especially when carried out as part of a system of periodic visits, constitutes one of the most effective preventive measures against torture. Independent non-governmental organisations should be authorised to have full access to all places of detention, including police lock-ups, pre-trial detention centres, security service premises, administrative detention areas and prisons, with a view to monitoring the treatment of persons and their conditions of detention. When inspection occurs, members of the inspection team should be afforded an opportunity to speak privately with detainees. The team should also report publicly on its findings. (...)”

Report to the United Nations General Assembly by the Special Rapporteur on the question of torture; A/56/156, 3 July 2001, §39 (e)

“In its actions against torture the European Union will urge third countries to take, inter alia, the following measures:

- Allow domestic visiting mechanisms
- Allow visits by suitably qualified representatives of civil society to places where persons deprived of their liberty are held.”

Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment, 9 April 2001.

“OSCE participating States are encouraged to allow for comprehensive civil society monitoring of all places of custody.”

“OSCE participating States should consider providing for a firm legal basis for NGO monitoring places of custody, including pre-trial facilities and police detention facilities. In the absence of a clear legal basis authorities should use their discretionary powers to allow for civil society monitoring.”

OSCE Supplementary Human Dimension Meeting on Prison Reform, Vienna, 8-9 July 2002

PART II

Designing a programme for monitoring conditions of detention

I- PREPARING A GENERAL PLAN OF ACTION

1. PRELIMINARY CONDITIONS FOR THE NGO

Whether the NGO already has activities in the field of deprivation of liberty or whether it is not yet active at all, it should ask itself a number of questions before undertaking concrete steps to obtain access to persons deprived of their liberty.

The list of questions below is not exhaustive; it is merely an aid for drawing up a plan of action.

1.1. The profile of the NGO

In order to begin the process of persuading the authorities to grant the necessary authorisation for a monitoring programme, the NGO must first introduce itself: What it is, what it does, what it wants to do, for whom and how.

Are the following points sufficiently developed and well-argued in the NGO's presentation?

- the mission that it has set itself, its goals and objectives;
 - its values;
 - its procedures and working methods;
 - its spheres of competence.
-

1.2. The NGO's resources

Monitoring of conditions of detention is a preventive mechanism which can help protect detainees only if it is repeated regularly. Such a programme therefore needs to have sufficient human and financial resources for the long-term.

Depending on the objectives that it has set itself, does the NGO have the necessary resources in terms of:

- number of staff: permanent members as well as extra, temporary staff to guarantee repetition of visits and ability to respond to emergencies?
- professional skills: to deal with the legal, medical, social, and material aspects of detention?

Does the NGO have the financial means necessary to cover the running costs of a programme for a certain length of time?

1.3. Action priorities of the NGO

Monitoring the conditions of detention of all persons deprived of their liberty nation-wide is an immense task which requires, in addition to political will on the part of the authorities, considerable means not within the reach of all NGOs.

The NGO must therefore define its priorities and limit its action according to the mission that it has assigned itself, the means it has available, and the attitude of the authorities toward the work of human rights NGOs and protection activities already carried out by other players.

Reason would dictate that those persons deprived of their liberty who are most cut off from the outside world, and thus most at risk of

suffering serious abuse, should be the priority target of a programme to monitor conditions of detention. In practice, however, these are often the very persons who are the most difficult to visit.

To sum up, **priorities** can be selected according to the following, non-exhaustive criteria:

Category of persons deprived of their liberty

- Age;
 - sex;
 - nationality or community of origin;
 - type of deprivation of liberty (see Table 1).
-

Detaining authorities

- Ministry of the Interior: police, security services, immigration services;
 - Ministry of Justice: criminal investigation department, prison authorities;
 - Ministry of Defence.
-

The work of other players

- **Who?** Who are the other players working in the field of persons deprived of their liberty?
- **For whom?** What categories of persons deprived of their liberty are they interested in?

- **Why?** What are their objectives?
- **How?** What are their working methods?
- **How much?** What is the scope of their activities?
- **Where?** What is the geographic radius of their activities?

Are the objectives of the NGO's action plan complementary to those of the other players or do they duplicate them? Depending on the answer, should the NGO's objectives and initial programme be modified?

Socio-geographic criteria

- geographic regions with particular problems;
 - main cities and towns.
-

2. WORKING IN A NETWORK: A STRATEGY FOR ENHANCING EFFICIENCY

The NGO can enhance the efficiency of its monitoring and protection programme for persons deprived of their liberty by including the concept of working in a network in its action strategy.

This method consists of establishing working relations with other organs, institutions, or non-governmental organisations involved directly or indirectly in the field of deprivation of liberty.

Potential partners

- national and international human rights NGOs;
 - charitable associations, religious or otherwise;
 - regional organisations:
Council of Europe (above all the CPT);
Organisation for Security and Cooperation in Europe
(field offices);
 - United Nations agencies:
UNDP, judicial reform programmes;
UNICEF, women and children in detention;
UNHCR, programmes for the protection of refugees.
-

Working relations can entail different degrees of involvement by the NGO:

- the exchange of general information between players: getting to know and making oneself known;
 - joining efforts on general or specific issues;
 - complementary action:
 - by dividing up the areas of work;
 - by seeking political or operational support from other organisations;
 - co-ordination on general or specific issues: defining common positions or strategies;
 - partnership by implementing joint programmes with other organisations.
-

II - OBTAINING ACCESS TO PERSONS DEPRIVED OF THEIR FREEDOM

1. OBTAINING AUTHORISATION

In some countries, access by non-governmental organisations or by civil society as a whole is provided for in a law, decree, or regulation. This means that the NGO does not in principle have to obtain an authorisation to gain access to persons deprived of their liberty. It must still, however, negotiate the concrete procedures for this access. The advantage of having a legal basis of this kind is the permanence of the authorisation, which does not depend on the good will of the authorities in place and is not subject to limitations in length. On the other hand, the legal basis may provide a narrower framework than could otherwise be negotiated directly with the authorities.

In some contexts, it may also be possible to gain access to certain categories of persons deprived of their liberty simply with the agreement of the individuals in charge of the place in question. An unofficial and limited authorisation can be beneficial to those deprived of their liberty and very useful in a crisis situation. Such an approach, however, cannot constitute a true monitoring mechanism, and thus will not be taken up here.

In most cases, the NGO must request authorisation from the authorities in charge to carry out regular visits to persons deprived of their freedom. It is often easier to obtain this authorisation from the higher authorities, in general the ministry responsible (see Table 1), than from those lower down in the hierarchy.

Deciding on the best strategies to adopt depends on many factors related to the NGO itself, the context in which it is working, and the detaining authorities concerned. For this reason, we shall limit ourselves here to a few questions that can help new NGOs, in particular, prepare for meetings with the authorities concerned in order to obtain the necessary authorisation.

Questions – reference points

Do the NGO's arguments clearly draw the authorities' attention to the fact that there are also advantages for them in letting NGOs monitor the conditions of detention of persons deprived of their liberty?

- assists State organs in fulfilling difficult and delicate tasks;
 - helps reduce public distrust and the ensuing negative rumours by having an external eye on the functioning of these organs;
 - improves the State's image internally and externally through a concrete measure—authorisation of access—aimed at guaranteeing application of the law and respect for human rights.
-

Would the intervention of external experts back up the NGO's position?

- professionals active in a field or fields related to the deprivation of liberty;
- individuals who are socially or politically influential.

Can these persons intercede with the authorities concerned on behalf of the NGO before the meeting (lobbying)?

NGO back-up strategy:

If the authorities concerned refuse to grant access to the persons targeted by the programme, what is the NGO's back-up strategy?

- more lobbying to make the authorities change their mind;
 - modifying one or more points of the action programme:
 - change the category of persons deprived of their liberty, the detaining authorities or the type of place of detention targeted;
 - limit the breadth or implementation of the programme;
 - postpone the request for access to the categories of persons which met with direct refusal by the authorities, and negotiate access to less sensitive categories so as to begin monitoring work, which can then be developed in the medium term depending on the possibilities.
-

2. TYPE OF AUTHORISATION OF ACCESS

Official authorisations of access to persons deprived of their liberty can be either in written or in oral form.

A written authorisation does not automatically mean that there will not be difficulties of access on the spot. It does, however, have the advantage of being material evidence which can be shown to recalcitrant officials in charge of places of detention. This is particularly useful, even indispensable, in places of detention under the responsibility of the police or security forces and in prisons.

To enable the visits to persons deprived of their liberty to begin within a reasonable period, the authorities which granted the authorisation should officially notify those directly in charge of the places of detention.

Especially at the beginning, it can be useful to ask the authorities which granted the authorisation to identify a representative, if possible with a certain decision-making power, to serve as a contact for the NGO in case of difficulties of access on the spot.

3. CONTENT OF THE AUTHORISATION

The content of the authorisation can either be general or detailed. The advantage of a detailed text is that it provides a better guarantee for the NGO regarding the conditions of access and work necessary for efficient monitoring. The time spent in obtaining a well-formulated authorisation is more than made up for by the time saved once the programme is underway.

In certain contexts, however, access may be granted to an NGO simply because the circumstances of the moment favour such a decision by the authorities. In this case, it may be neither possible nor wise to negotiate the content of the authorisation in detail. Any subsequent refusals or restrictions must then be dealt with in the field with the officials directly responsible for the places of detention.

Access concerns above all the persons deprived of their liberty and not the places of detention themselves. Visiting empty places of detention has no value whatsoever.

The authorisation must guarantee:

- access without restriction, within the place of detention, to all persons targeted by the NGO's programme;

- access to all places used by and for the persons deprived of their liberty (living quarters, kitchens, sanitary installations, etc.);
 - interviews in private—out of hearing and, if possible, out of sight of the surveillance personnel—with persons deprived of their liberty who so wish and with those selected by the members of the visiting team. The authorities must also guarantee that the detainees with whom the visiting team has spoken are not subjected to pressure, threats, or ill-treatment by the officials by way of reprisal;
 - the possibility of repeating the visits at a frequency determined by the NGO according to its objectives.
-

It is also strongly recommended that the authorisation permit:

- visits without prior notification of the detaining authorities. Failing this, and in all circumstances, access should be given as quickly as possible. Where the authorities require that the NGO inform them in advance of the dates of the visits, the notification period should not exceed several days;
 - access to all registers in the place of detention relating to the persons held there and their living conditions.
-

III - ESTABLISHING A PROGRAMME

1. ESTABLISHING A PROGRAMME OF VISITS

The visiting programme should contain the following points:

- a list of places holding the categories of persons deprived of their liberty that the NGO is targeting and for whom it has obtained authorisation;
- the order in which the places will be visited;
- the intended length of each visit;
- the frequency with which visits will be repeated.

1.1. Choosing the places

Criteria for choosing which places to visit

- risk: the risks, whether potential or real, to which the persons deprived of their liberty are exposed;
 - priority to places of detention where persons are interrogated;
 - places of detention in high risk regions, towns, or districts;
 - number of detained persons;
 - sample: selection of places deemed the most representative of the situation in the country.
-

1.2. Length of the visits

The visits must be long enough to be able to talk with the individuals in charge of the place, their subordinates, and a representative sample of the persons held there, and to examine the facilities and living conditions.

The length of the visit should also, however, reflect the fact that visits can disrupt or inhibit the work of the staff in charge of the persons deprived of their liberty. It is thus important to strike a balance between the need for efficient monitoring and the constraints inherent in the way such places function.

The length of the visit can be estimated on the basis of the following factors:

- the size of the visiting team;
- the emotional stress caused by visits; it is thus not realistic to plan very long visiting days;
- the content of the visit agreement between the NGO and the authorities and any constraints contained in the agreement;
- how much is already known about the places to be visited:
 - Has the NGO already visited the place?
 - Has it received information from third parties which helps it to estimate the time needed for the visit?
- the size of the place of detention and the number of persons held there;
- the type of place of detention;
 - the security regimes applied (the higher the security, the longer it can take to move about within the detention facility);

- Are there different categories of persons deprived of their liberty under different detention regimes held in the same place? This can mean that more time is needed to examine the different conditions of detention;
 - the work needed to compile the data, which must be done as quickly as possible at the end of the visit;
 - the travelling time between different places of detention, in the case of a continuous programme.
-

1.3. Frequency of the visits

The frequency of the visits can be determined according to:

- the type of place of detention;
 - Pre-trial detention facilities such as police stations should generally be visited more frequently than penal establishments, as interrogations are held here;
 - Detainees' contacts with the outside world are limited;
 - There is a rapid turnover of detainees;
 - the risks—known or presumed—to which persons deprived of their liberty are exposed, or any protection-related problems noted;
 - the balance to be struck, over time, between the needs of the NGO and the needs of the officials in charge in order to carry out their work. Frequently repeated routine visits can, in the long run, be counterproductive if they disrupt the work of the staff without valid reason.
-

The frequency of the visits also largely depends on the gravity of the protection problems encountered. In some cases, for instance, it can be a good idea to repeat a visit after a short period of time if the NGO fears, rightly or wrongly, that reprisals might be taken against the detainees who talked to the visiting team.

2. THE VISITING TEAM

2.1. Composition

To monitor conditions of detention certain **skills** are needed, in particular in the fields of law and public health. The visiting team should thus comprise at least one person with a legal background and one with a medical background, preferably a doctor.

Should the NGO not have such skills available when forming its visiting team, it should at least make certain that those carrying out the visits have been given a general grounding in these subjects by professionals.

Other professional skills can also be very useful—for instance, those linked to psycho-social, organisational, and environmental engineering activities.

The NGO should, as far as possible, try to maintain stability in the composition of the visiting team for a certain length of time. If the members of the team change too often, it will be difficult to establish a constructive dialogue with the persons deprived of their liberty and the authorities in charge of the places of detention.

2.2. Size

The **size of the visiting team** depends on a number of factors, for instance:

- the objectives of the visit;
 - how much is already known about the place and its problems;
 - the size of the establishment and the number of persons held there;
 - any constraints laid down by the detaining authorities.
-

The ideal size for a visiting team can be estimated as being between 2 and 8 individuals.

2.3. Training

The team members who are going to take part in a visit should have received **basic** training about:

- the issues and problems relating to the deprivation of liberty;
 - the objectives of the visits;
 - the necessary points of reference for monitoring conditions of detention, in particular the relevant laws and regulations;
 - the behaviour to adopt with the authorities, staff, and detainees.
-

STAGES OF A VISIT

WHEN?

WHAT?

PREPARATION OF THE VISIT

- Collect available information
- Define the objectives of the visit
- Organise the visiting team

VISIT

- Initial talk
- Visit of the premises
- Consultation of registers
- Interviews in private
- Final talk

FOLLOW-UP TO THE VISIT

- Internal report on the visit
- Follow-up correspondence
- Follow-up visit
- Report

PART III

Implementing a programme for monitoring conditions of detention

INTRODUCTION

A FRAMEWORK OF REFERENCE – A FRAMEWORK OF REASONING

Monitoring conditions of detention involves checking that these conditions correspond to legal, scientific (e.g. medical), social, and moral standards. The general standards relating to the deprivation of liberty are contained for the most part in the international instruments and in relevant national legislation.

The fundamental principles relating to the treatment of detainees form the most general standard setting framework for the deprivation of liberty. They are applicable to any person deprived of freedom wherever he or she may be held.

Fundamental Principles relative to the treatment of detainees

adopted by the Assembly General of the United Nations in its resolution 45/111 of 14 December 1990

- ① All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.
- ② There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- ③ It is, however, desirable to respect the religious beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions so require.

- ④ The responsibility of prisons for the custody of prisoners and for the protection of society against crime shall be discharged in keeping with a State's other social objectives and its fundamental responsibilities for promoting the wellbeing and development of all members of society.
 - ⑤ Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants.
 - ⑥ All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.
 - ⑦ Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.
 - ⑧ Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labour market and permit them to contribute to their own financial support and to that of their families.
-

Viewed schematically, the monitoring process should be as follows:

- ① The NGO determines, as exhaustively as possible, the **state of affairs** as regards the conditions of detention—i.e., the practice—by **summarising**:
 - the point of view of the authorities, the staff, and the different professionals taking care of the persons deprived of their liberty;
 - the point of view of the persons deprived of their liberty;
 - what the members of the NGO have observed in the places of detention.
 - ② The NGO examines whether the conditions of detention are in conformity with the relevant national and international standards;
-

Depending on the NGO's working methods vis-à-vis the authorities and the skills it has available, the monitoring process can be more or less thorough:

- ① The NGO can limit itself to **noting** whether the aspects examined are in conformity with the standards: i.e., what actually **is** compared with what **should be**.
- ② On the basis of this, it can then try to explain, at least in part, the causes of any deviations from the standards. These are generally due to a combination of factors, e.g.:
 - National legislation does not correspond to international standards;

- The standards are not applied or are only partially applied, for instance because:
 - they are not sufficiently developed in substance for them to provide a true framework for the work of the staff in charge of persons deprived of their freedom;
 - the staff's training is deficient as regards certain aspects of their work and, as a result, their professional culture is at variance with the standards;
 - the human or material resources available do not permit application of the standards.

The above analysis can be used in order to formulate more substantial and pragmatic recommendations, rather than simply reiterating the standards.

Moreover, understanding the problems and their causes means that one can also:

- identify the sensitive areas or the main problems;
- integrate the time factor in the recommendations (i.e., what can be done in the short, medium, and long term);
- propose original solutions to certain problems;
- contribute to development of the standards.

I - PREPARING THE VISIT

For a visit to take place in the best possible conditions it must be prepared beforehand. The NGO should set aside the necessary time in order to:

Summarise the information available about the place visited:

- a summary of information obtained during earlier visits or from other sources;
 - the authorities directly responsible and the higher authorities;
 - the number and the status of the inmates;
 - any known or alleged problems.
-

Define the specific objectives of the visit:

- a general evaluation of the conditions of detention;
 - a follow-up visit to check up on specific aspects of detention;
 - a follow-up of individual cases;
 - other.
-

Organise the work of the visiting team:

- prepare a check-list of the detention conditions as a means of guaranteeing standardised collection of information; (see appendix 1)

- identify one person to head the team and as such to be responsible for running the visit;
 - ensure that the team members all have the same information on the place to be visited, the objectives, and the procedure of the visit;
 - divide the different tasks among the team members according to their skills and the intended length of the visit.
-

Plan any contacts to be made outside the place of detention:

- political and administrative authorities;
 - judicial authorities;
 - State services working with the place of detention, for example, medical and social services;
 - any other players working with the place of detention;
 - others.
-

II - THE VISIT

METHODOLOGY

1. THE PRINCIPLES WHICH SHOULD GOVERN THE NGO'S WORK IN THE PLACE OF DETENTION

Monitoring the conditions of detention of persons deprived of their freedom is a delicate task. For reasons both of ethics and of efficiency, those conducting visits must respect a number of principles.

1.1. Unequivocal behaviour (or correspondence between what one says and what one does)

The reasoning behind monitoring conditions of detention is based on the need for transparency. In addition to demanding transparency of the authorities and officials in charge, this demand must also apply to the behaviour of those conducting visits.

The very nature of their work means that, at all levels of the hierarchy, the staff in charge of keeping watch over persons deprived of their liberty (in particular in places of detention under the responsibility of the police forces and penal administration) develop a professional culture which is dominated by the security aspects of detention; the corollary of this concern is a generalised distrust toward people from outside. The behaviour of the NGO during its visit will, in turn, be scrutinised by the officials working there. It must therefore be beyond all reproach.

The members of the visiting team must, in particular, make sure to:

- explain clearly their objectives and working methods and carry out the visit accordingly;

- respect the internal regulations of the place visited or request any special dispensation from those in charge;
 - refuse to carry out any act or take any steps requested by a person deprived of his or her liberty which is against the law or internal regulations or obtain a special dispensation from the person in charge;
 - display their identity visibly by wearing a badge or other means of identification.
-

1.2. Respect for staff in charge of the deprivation of liberty

Unless a minimum basis of mutual respect is established between the staff and the visiting team, the NGO's work in places of detention will soon be jeopardised.

The staff working in places of detention rarely do so by vocation. They are carrying out a series of often thankless tasks of a contradictory nature: Their work is socially undervalued and, depending on the country, poorly paid.

While it is clear that, among the staff, one can find individuals who behave in an unacceptable way toward those deprived of their freedom and who must be punished, many problems stem not from particular individuals but from an inadequate system for the deprivation of liberty (legislation and regulations, organisation, resources, training of staff, etc.) which fosters inappropriate behaviour.

The members of NGOs should therefore at all costs avoid the naive approach of seeing things in terms of “the good guys” –generally those detained– and “the bad guys”– those keeping watch over them.

The NGO should also strive to identify the different hierarchic levels and their respective responsibilities so as to be able to address

any problems at the right level in its talks with the authorities and in the recommendations made.

1.3. Respect for those deprived of their freedom

The issue of how to hold talks in private with persons deprived of their liberty will be dealt with later.

Whatever the reasons, justified or not, for the deprivation of liberty, those experiencing it must be treated with respect and the same forms of courtesy that obtain outside the place of detention.

In particular, the members of the NGO who are in contact with persons deprived of their liberty should take care:

- to avoid any action or measures which could endanger an individual or a group;
 - to explain clearly and unequivocally the objectives and above all the limitations of the work carried out by the NGO;
 - never to promise or lead anyone to believe in an action or measure which will not be or is highly unlikely to be taken;
 - to make representations in the name of a particular person deprived of his or her freedom only with that person's express consent and after he or she has been alerted to the problems or risks that could arise therefrom.
-

1.4. Checking the information

The legitimacy and efficiency of the NGO's efforts will be established over time, mainly as a result of the relevance and consistency of its work. Any information obtained in the place of detention which is not concretely verifiable must, within reason, be subjected to the examination of various sources (detainees, detainers, external sources).

Unless there are serious doubts as to their veracity, any allegations of torture or ill-treatment should be transmitted—with the above-mentioned precautions as regards representations made in the name of individuals—to the authorities, at a level which does not endanger the person concerned by the allegation. The burden of proof, i.e., the responsibility to carry out a more thorough investigation of these cases and the circumstances in which they occurred, falls upon the detaining authorities.

2. TALK WITH THE HEAD OF THE PLACE OF DETENTION AT THE START OF THE VISIT

The first visit to a place of detention should begin with a talk between the visiting team and the person in charge of the place or his or her deputy. This talk, which is the first step in establishing a dialogue with the authorities, serves to:

-
- introduce the NGO and the members of the visiting team;
 - explain:
 - the meaning and objectives of the visits,
 - the working methods used, in particular the absolute need to talk in private with the persons deprived of

their liberty and, if possible, the members of staff looking after them,

- the use that will be made of the information collected;
 - reassure the person in charge of the place as to the behaviour of the members of the team during the visit (respect for rules and security regulations);
 - explain how the visit is to unfold and how long it will last;
 - request information about the place of detention and any changes since the last visit;
 - ask for the opinion of the person in charge regarding:
 - the conditions of detention and the persons in his or her charge,
 - any problematic aspects of these conditions and their causes,
 - his or her own proposals for improvements;
 - fix a meeting to talk about the results of the visit.
-

Once the NGO has carried out several visits to the same place without encountering any serious difficulties or noting any particular problems regarding the conditions of detention, the talk at the start of the visit can be limited to its formal or relational aspects, or need not even be held systematically each time.

3. CONSULTATION OF REGISTERS

In this section, registers are understood only as sources of information about the persons deprived of their liberty and their living conditions. Registers as a protection measure will be dealt with further on.

Consulting the registers at the beginning of a visit can be useful, in particular if the visit is to take place over several days. The information obtained from the registers can then, if necessary, be verified during the visit.

Depending on the type of place of detention, there can be many different registers. Those most relevant here can be divided into three categories:

Registers relating to the persons deprived of their liberty:

- by category of detainee;
 - entry and exit registers;
 - registers of disciplinary measures;
 - medical registers;
 - other.
-

Registers of material supplies for the persons deprived of their liberty:

- food, hygiene, clothes, bedding, etc;
 - medicines and medical material;
 - educational, sport, and leisure material;
 - other.
-

Registers of events from the everyday life of the detention facility:

- use of force or firearms;
 - registers concerning the regime: work, exercise, educational activities;
 - register of incidents.
-

These last three registers can be particularly important when reconstructing the circumstances of and the different responsibilities for abusive behaviour toward persons deprived of their liberty. However, the authorities often refuse to let visitors consult precisely these registers.

4. VISITING THE PREMISES OF DETENTION FACILITIES

During the first visit, it is particularly important to see all areas of the premises used by and for the detainees. This should be done with all the members of the team and with the person in charge of the place of detention, or an official able to give useful information about the layout of the premises and functioning of the services.

Visiting the premises makes it possible to:

- visualise the premises and their layout. The importance of this point must not be overlooked, as the architecture of the place of detention and the physical security arrangements (fences, confining walls, etc.) have a very direct influence on the daily life of those deprived of their liberty;
 - locate the detainees' living quarters (cells, dormitories, courtyards, refectories, study and leisure areas, sports rooms and fields, workshops, etc.) as well as the various services and installations provided for them (kitchen, sick bay, sanitary installations, laundry, etc);
 - obtain a first impression of the atmosphere and mood in the place.
-

While all the premises should be seen, some should have absolute priority, as they can serve as a measure of the level of respect accorded to persons deprived of their freedom. These are:

- the isolation cells and disciplinary cells;
- the sanitary installations;
- the other cells and the dormitories.

5. INTERVIEWS WITH PERSONS DEPRIVED OF THEIR LIBERTY

Talking with persons deprived of their liberty **forms the basis of the process of documenting the conditions of detention.**

At the start of each talk, whether in a group or in private, the members of the visiting team should introduce themselves together with the NGO and explain clearly why they are there and how they will use any information collected.

It is strongly recommended that the NGO make a chart for the talks in groups and for those with individuals.

Comments or questions should not be formulated in a manner which could limit or influence how the person responds to them.

5.1. Group talk

This type of talk can be held in places where persons are held for a certain length of time, such as prisons or holding centres, and when the security regime permits.

Group talks make it possible to obtain general information about the **material aspects of and activities during detention.** Persons deprived of their liberty rarely form a homogenous community, and it is therefore not advisable to discuss more sensitive questions such as relations with the staff or disciplinary questions in a group.

The length of the group talks should be fixed beforehand. It is a good idea to begin the discussion with an open question. The statements of those present can thus indicate what they see as the main problems (or those they dare to mention).

In a second phase, the talk should be more guided, with the aim of obtaining information about the main points concerning detention. Where contradictory or questionable information is obtained, it can be double-checked during private talks and by consulting other sources.

5.2. Talks in private

A talk in private is above all a meeting with a person who is living in an abnormal situation (that is, outside the norm of external society), that of the deprivation of liberty. The person has a singular life story which cannot be reduced to the reasons why he or she is detained. This obvious fact is often overlooked in the generalising and hence simplistic attitude of the officials in charge, and sometimes of external players as well.

The **choice of location** for the talk is crucial, as it will influence the attitude of the person deprived of liberty. This talk must necessarily be held out of hearing of the officials, but it is not always possible to hold it out of their sight. Any location which would be likely to equate the visitor with the staff in the eyes of the detainee, for instance the administrative offices, should be avoided. The talks can be held in the living quarters of the persons deprived of their freedom—cell, dormitory, visiting room, courtyard, library, etc. Any restrictions imposed by the staff for security reasons, and above all the opinion of the person with whom the talk is to be held, must of course also be taken into account.

In the vast majority of cases, the visitors will have to choose a limited number of persons with whom they wish to talk. Those selected should be as representative as possible of the different categories of detainees at the site. The visitors should take care not to talk just to those individuals who seek contact with them.

One or two visitors can take part in the talk, one leading the discussion and the other taking notes. While this might seem overpowering to the person deprived of liberty, it has the advantage of enabling the person leading the talk to concentrate better; it should, however, be cleared with the detained person. For any number of reasons—experience or emotional state, prolonged deprivation of liberty leading to loss of the notion of time, memory blackouts, obsessive thoughts, etc.—the way people deprived of their liberty express themselves is often rather confused.

The talks in private must be managed in such a way as to reconcile the need to obtain information, emotional considerations, and the time available.

It is thus vital constantly to **strike a balance between:**

- the need to gather the information necessary to assess the conditions of detention and the person's need to express him-/herself on the subjects preoccupying him/her. Anything resembling an interrogation should be avoided at all costs;
 - an attitude of empathy toward the person and the emotional distance needed for the visitor to carry through the talk. The point of equilibrium will also depend on the emotional state of the person deprived of liberty;
 - the distribution of the time available between the person's need to communicate and the visitor's need to obtain information, depending on the estimated length of each talk as calculated beforehand.
-

In addition to the talks, whose main aim is to gather the information necessary to monitor the conditions of detention, it is strongly recommended that visitors seize any other opportunity to talk with the

persons deprived of liberty and with the staff. Far from being a waste of time, this socialising will generally be welcomed, and in time will help to establish constructive working relations.

6. TALKS WITH THE STAFF IN CHARGE OF PERSONS DEPRIVED OF LIBERTY

The staff can be divided into two categories: those responsible for surveillance and those in charge of the services—kitchen, medical, social, educational, etc. Talks with the latter are held as part of the examination of the conditions of detention.

Talks with the surveillance personnel are difficult to carry out for various reasons stemming from the organisation and nature of their work—for instance, it is impossible to meet with many staff on duty at the same time—as well as questions of hierarchy and a rather developed esprit de corps in this professional environment. The surveillance personnel are an important element in the daily life of the persons deprived of their liberty, and it is thus a good idea to try and organise talks with them in which the NGO explains the reasons for its work, answers their questions, and listens to their viewpoints.

7. ENDING THE VISIT

It is important to formally end the visit with a talk with the head of the place. According to the strategy adopted and the findings, this final talk can have different objectives:

-
- The information is analysed during the visit and a summary is transmitted immediately to the person in charge of the place during a talk at the end of the visit;

- The information is analysed afterwards and transmitted to the person in charge of the place either orally or in writing. The end-of-visit talk is a mere formality;
 - In cases where grave abuses have been noted, the NGO addresses the authorities further up the hierarchy directly, so as not to incur the risk of reprisals against those who provided the information. This strategy should be used only in serious cases, as it is very likely to damage working relations with the person in charge of the place in question.
-

Whatever the strategy adopted, it is important to note that in view of the establishment of a constructive dialogue with the persons in charge of the places visited, these persons must be informed promptly of the result of the visit.

8. TALKS WITH THE DETAINEES' FAMILIES

Whether in the context of a visit or not, the NGO can have contacts with the families of persons deprived of their liberty. Based on the same principles of behaviour, talks with the families can complete the overall picture of the problems caused by the deprivation of liberty. The families can play a role in the protection procedure if they relay information between the persons deprived of their liberty and the NGO in the case of an incident or other problematic situation in the place of detention.

III - FOLLOW-UP OF THE VISIT

The visit is not an end in itself: It is merely the beginning of a process aimed at improving the conditions of treatment and detention of persons deprived of their liberty. The phase which follows the visit is thus as important as the visit itself, if not more so.

1. HANDLING THE INFORMATION COLLECTED DURING THE VISIT

Depending on the visiting team's observations and the gravity of the problems encountered, the information collected during the visit can be used quickly to prepare oral or written representations, or it can be used later to draw up a synthesis report on the detention conditions. Summary reports can cover several visits carried out to the same place of detention or different places.

The NGO must be able to identify reference points or indicators which enable it to follow the evolution over time of the conditions of detention in the places that it visits regularly.

This means that the information gathered by the visiting teams must be analysed, organised, and filed in such a way that it can be used as efficiently as possible when needed. Information which is neither analysed nor filed logically is lost information.

It is a good idea to draw up visit reports which have the same structure and headings for each visit. These reports prove particularly useful when summarising several visits and in preparing the next visit.

2. THE STEPS TO TAKE

2.1. Completing the information collected in the place of detention

In many cases, the information obtained during the visits can be completed and checked outside the place of detention by consulting:

- the higher authorities;
 - State services other than those responsible for the place of detention (e.g., Ministry of Health);
 - other actors;
 - the families of the persons deprived of their liberty.
-

2.2. Informing the authorities

The NGO should regularly inform the detaining authorities of the results of its assessment of the places of detention visited. It is strongly recommended that written reports be handed over. The oral transmission of information should be restricted to the periodic contacts which the NGO will strive to establish and to maintain with the relevant authorities.

Not every place visited need necessarily be the subject of a written or oral report to the authorities immediately after the visit. It is the gravity of the problems noted which will determine whether or not written or oral representations are appropriate after just one visit. More often than not, the reports will be drawn up following one or more series of visits over a given period.

3. WRITING A MONITORING REPORT ON CONDITIONS OF DETENTION

3.1. Content of the report

The report, like the visit, is a tool for protecting persons deprived of their freedom. Its goal is to inform, persuade, and sometimes to denounce. It also provides a reference point, a marker in the monitoring process. It helps to measure the evolution of conditions of detention over time (see appendix 2).

The report should contain certain general information:

- concise information about the identity of the NGO (aims, objectives);
 - the official authorisation obtained in order to carry out the visits;
 - the NGO's working methods;
 - the composition of the visiting team;
 - the persons deprived of liberty whose conditions of detention it has monitored: who, how many, under what detaining authority, where and when;
 - the specific objectives of the visits carried out;
 - how the information was gathered and checked.
-

Presentation of the conditions of detention:

- It is not necessary to go into great detail about those aspects of the conditions of detention which are adequate, although it is recommended that positive aspects also be mentioned;

- A priority ranking should be established for the problematic conditions:
 - emphasis on the most serious problems;
 - emphasis on the main problems which give rise to other problems;
 - The problems and their consequences must be clearly stated.
-
-

Recommendations:

The recommendations or corrective measures proposed should include a time factor: those which can be applied in the short term, the medium term, or the long term. These deadlines must be realistic and follow logically from the presentation of the problem.

The drawing up of a report containing recommendations forms the basis for dialogue with the authorities. It is intended that these latter will react to the report, which is why it is important to give them sufficient time to take a stand in relation to any criticism or recommendations made. Their answers and general attitude help the NGO to adapt its visit programme; during subsequent visits, the NGO can check whether the official replies correspond to the situation in the field.

3.2. For whom is the report intended?

The report should above all be addressed to the authorities in charge of the place and to those who issued the authorisation for access. It is nonetheless important that the NGO's report also be made public and be sent to other players: parliamentarians, other national and international NGOs, etc. Depending on the NGO's communication strategy, the reports or summaries thereof can also be transmitted to the media.

The NGO should make absolutely certain that the content of its public declarations, press releases or reports does not put the individuals it has visited in danger.

It should be noted that such reports can also be a very useful source of information for international bodies, in particular the CPT, but also for the UN Committee against Torture when the country's report is examined, for the Special Rapporteur against torture, etc.

Some questions – reference points:

- To whom is the report addressed?
 - a personally identified authority or not,
 - to several authorities from the same ministry or not,
 - to what level in the hierarchy;
 - How open and how sensitive are the authorities to whom the report is addressed?
 - What should the report make them understand?
 - What action or steps does the NGO wish them to take on the basis of the report?
 - Are the problems correctly documented and argued?
 - Is the NGO able to counter any possible attacks by the detaining authorities?
-

4. OTHER POSSIBLE ACTION

The NGO can also carry out other activities which are complementary to the visit programme. Thus, in order to overcome certain problems, the NGO can organise training seminars for members of staff or informal exchanges on specific problems. If need be, but as a last resort, the NGO can choose to take legal action and lodge a complaint with the courts.

ISSUES TO EXAMINE

TREATMENT

- Allegations of ill-treatment
- Solitary confinement
- Means of restraint

PROTECTION MEASURES

- Inspection
- Complaints procedures
- Disciplinary procedures
- Registers of detention
- Separation of categories of detainees

MATERIAL CONDITIONS

- Food
- Lighting and ventilation
- Personal hygiene
- Sanitary facilities
- Clothing and bedding
- Overcrowding and accommodation

REGIMES AND ACTIVITIES

- Contacts with the outside world
- Outdoor exercise
- Education
- Leisure activities
- Religion
- Work

MEDICAL SERVICES

- Access to medical care
- Medical care of women
- Transmissible diseases
- Medical staff

PRISON STAFF

- Staff generalities
- Training of the staff

PART IV

What conditions of detention to examine

1 TREATMENT

2 PROTECTION MEASURES

3 MATERIAL CONDITIONS

4 REGIME AND ACTIVITIES

5 MEDICAL SERVICES

6 PRISON STAFF

7 POLICE CUSTODY

Abbreviations:

BPP	Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment <i>Adopted by the United Nations General Assembly resolution 43/173 of 9 December 1988</i>
CPT GR2:	2nd General Report on the CPT's activities covering the period 1 January to 31 December 1991; CPT/Inf (92)3, 13 April 1992
CPT GR3	3rd General Report on the CPT's activities covering the period 1 January to 31 December 1992; CPT/Inf (93) 12, 4 June 1993
CPT GR 10	10th General Report on the CPT's activities covering the period 1 January to 31 December 1999, CPT/Inf (2000) 13, 18 August 2000
CPT GR 11	11th General Report on the CPT's activities covering the period 1 January to 31 December 2000, CPT/Inf (2001)16, 3 September 2001
CPT GR 12	12th General Report on CPT's activities covering the period 1 January to 31 December 2001, CPT/Inf (2002) 15, 3 September 2002
EPR	European Prison Rules; Recommendation R(87)3, <i>adopted by the Council of Europe Committee of Ministers on 17 February 1987</i>
ICCPR	United Nations International Covenant on Civil and Political Rights, 1966
R(89)12	Recommendation of the Committee of Ministers to Member States on Education in Prison (<i>adopted by the Council of Europe Committee of Ministers on 13 October 1989</i>)
SMR	Standard Minimum Rules for the Treatment of Prisoners <i>Adopted by the United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1955, and approved by ECOSOC in its resolutions 633 C (XXIV) of 31 July 1957 and 2076 (VXII) of 13 May 1977</i>

It is not reasonable to try to examine all aspects of the conditions of detention systematically during each visit. An analysis of the information collected in preparation for the visit will provide orientation for defining the objectives and priorities of the visit.

During the first visits, one can concentrate on the state of the material infrastructure: buildings, cells, common facilities. Once this has been established, it is suggested that the visitors pay closer attention to the following aspects:

- the complaints systems within the places of detention;
- the management of disciplinary punishments;
- contacts with the outside world;
- medical care;
- the relation between staff/management and detainees.

This chapter presents point by point the different elements which should be examined during a visit, ordered according to theme. These apply mainly to detention in prisons. At the end of the chapter, however, certain aspects specific to detention by the police are looked at. The aim of this chapter is to provide a practical tool giving rapid access to the international standards on conditions of detention and an overview of the various factors to take into account during visits.

TREATMENT

Persons who are deprived of their freedom are particularly vulnerable. It cannot be stressed enough that all persons in this situation must be given humane treatment which respects their dignity. Above all, torture and inhuman or degrading treatment are absolutely prohibited and cannot be justified under any conditions.

Other measures can constitute ill-treatment if put to improper use. This relates in particular to solitary confinement and other means of constraint. This is why recourse to such measures must be accompanied by a series of guarantees.

Treatment

- Torture and ill-treatment
 - Solitary confinement
 - Means of restraints
-

TORTURE AND ILL-TREATMENT

Standards

“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.” *BPP, Principle 6*

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.” *ICCPR, Art. 7*

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.” *Article 3 of the European Convention on Human Rights, 1950*

“For the purposes of this Convention, the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person personal information or a confession, punishing him for an act he or a third person has committed or is suspected to have committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of with the consent or acquiescence of a public official or other person acting on an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.” *Art. 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984*

Comments

Allegations of torture or ill-treatment received outside of or during visits and, in some cases, the visitors' observations, must be documented in detail. It is the medical specialists (of both physical and mental health) who must be put in charge of documenting the cases to be submitted for investigation by the competent services. The visitors can, however, be called upon to record allegations of ill-treatment.

Allegations of torture or ill-treatment should be transmitted, barring any serious doubts as to their veracity, to the authorities responsible for investigation (administrative and penal), with the above-mentioned precautions regarding representations made in the name of individuals, and following a procedure which does not endanger the person concerned by the allegation. It should be noted that the burden of proof, i.e., the responsibility for establishing the truth of the allegation by means of an appropriate investigation, lies on the authorities in charge.

Information to take down in cases of allegations of ill-treatment:

- full identity of the person;
- date when and place where the allegation was noted;
- detaining authorities;
- date and place of ill-treatment;
- authorities responsible for the ill-treatment;
- circumstances of the ill-treatment;
- witnesses of the acts;
- description of the ill-treatment (what, how, how long, by whom?).

Follow-up:

- Who has already been informed of this allegation, and with what results?
- Is there a possibility of lodging an administrative or penal complaint?
- Has the person authorised transmission of his/her allegation?
- Where a complaint was lodged, what were the consequences (for the author; for the victim)?

If a doctor is present:

- medical report;
- need for medical treatment.

Personal observations of the members of the delegation.

Visiting teams should also be made aware of the fact that practices exist which are more difficult to identify than acts of torture, but which can, in the long run, destroy the psychological balance of those deprived of their liberty. These are all the more harmful as the victims of these often insidious practices are not always in a position to identify them and to report them in an explicit manner. Rather, the facts are often conveyed through a general statement – for instance: “They treat us like animals”. The following staff practices or attitudes are examples of this:

- systematically ignoring a request until it is repeated several times;
- speaking to persons deprived of their liberty as if they were small children;
- never looking detainees directly in the eyes;
- entering detainees’ cells suddenly and without reason;

- creating a climate of suspicion among the detainees;
- authorising departures from the regulations one day and punishing them the next, etc.

Neither can acts of violence committed among fellow detainees be ignored—for example: hitting and injuring, rape, and sadistic behaviour. This type of violence is often not reported by the victims for fear of reprisals. It may to a certain extent be tolerated by the staff. They may consider that it is “the detainees' own business” and choose to look the other way rather than make enemies among the detainees who are likely to cause trouble in the future.

The possibilities for violence between detainees must be limited by the following measures:

- separation of the different categories of detainees;
- the choice of detainees to share living quarters;
- an easily accessible and confidential complaints system;
- trained staff in sufficient numbers.

Reference points

- Has the person suffered physical violence from the staff?
 - Are there visible marks?
 - Has the person been subjected to or is he/she still being subjected to psychological violence?
 - How are relations between detainees and staff?
 - Between detainees?
-

SOLITARY CONFINEMENT

Standards

“(1) Punishment by disciplinary confinement and any other punishment which might have an adverse effect on the physical or mental health of the prisoner shall only be imposed if the medical officer after examination certifies in writing that the prisoner is fit to sustain it.” *EPR, Rule 30*

“The CPT pays particular attention to prisoners held, for whatever reason (for disciplinary purposes; as a result of their ‘dangerousness’ or their ‘troublesome’ behaviour; in the interests of a criminal investigation; at their own request), under conditions akin to solitary confinement.

The principle of proportionality requires that a balance be struck between the requirements of the case and the application of a solitary confinement-type regime, which is a step that can have very harmful consequences for the person concerned. Solitary confinement can, in certain circumstances, amount to inhuman and degrading treatment; in any event, all forms of solitary confinement should be as short as possible.

In the event of such a regime being imposed or applied on request, an essential safeguard is that whenever the prisoner concerned, or a prison officer on the prisoner's behalf, requests a medical doctor, such a doctor should be called without delay with a view to carrying out a medical examination of the prisoner. The results of this examination, including an account of the prisoner's physical and mental condition as well as, if need be, the foreseeable consequences of continued isolation, should be set out in a written statement to be forwarded to the competent authorities.” *CPT, GR 2, § 56*

Comments

The visiting team should pay particular attention to detainees held, for whatever reason, in a regime of isolation (no contact with other detainees, limited or no contacts with the outside). When isolation is used as a protective measure, it should be less restrictive than when applied as a disciplinary sanction.

In any case, placing a human being in solitary confinement is a serious sanction which, if applied for an extended period of time and/or if repeated, can constitute inhuman or degrading treatment or even an act of torture. It must therefore be used as an exception and must be limited in duration; it must be as short as possible. Solitary confinement must be accompanied by a series of guarantees.

It should also be noted that juveniles should never be held under solitary confinement.

Reference points

- What is the maximum length permitted?
 - Who decides that solitary confinement is to be imposed?
 - Does the person still have one hour of outdoor exercise each day?
 - Is a medical examination carried out before solitary confinement? How frequently during the confinement?
 - Does the detainee have access to a doctor on request?
-

MEANS OF RESTRAINTS

Standards

“Instruments of restraint, such as handcuffs, chains, irons and straitjacket, 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.” SMR, Rule 33 (*see also Rule 34.*)

“The use of chains and irons shall be prohibited. Handcuffs, restraintjackets and other body restraints shall never be applied as a punishment. They shall not be used except in the following circumstances:

- (a) if necessary, as a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority unless that authority decides otherwise;
- (b) on medical grounds, by direction and under the supervision of the medical officer;
- (c) by order of the director, if other methods of control fail, in order to protect a prisoner from self-injury, injury to others or to prevent serious damage to property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.” *EPR, Rule 39*

“The patterns and manner of use of the instruments of restraint authorised in the preceding paragraph shall be decided by law or regulation. Such instruments must not be applied for any longer time than is strictly necessary.” *EPR, Rule 40*

“Prison staff will on occasion have to use force to control violent prisoners and, exceptionally, may even need to resort to instruments of physical restraint. These are clearly high risk situations insofar as the possible ill-treatment of prisoners is concerned, and as such call for specific safeguards.

A prisoner against whom any means of force have been used should have the right to be immediately examined and, if necessary, treated by a medical doctor. This examination should be conducted out of the hearing and preferably out of the sight of non-medical staff, and the results of the examination (including any relevant statements by the prisoner and the doctor's conclusions) should be formally recorded and made available to the prisoner. In those rare cases when resort to instruments of physical restraint is required, the prisoner concerned should be kept under constant and adequate supervision. Further, instruments of restraint should be removed at the earliest possible opportunity; they should never be applied, or their application prolonged, as a punishment. Finally, a record should be kept of every instance of the use of force against prisoners.” *CPT, GR 2, §53*

“(1) Staff of the institutions shall not use force against prisoners except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Staff who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the director of the institution.” *EPR, Rule 63*

Comments

Means of constraint should be resorted to on an exceptional basis and never as a disciplinary sanction. Furthermore, they must be accompanied by a series of guarantees:

- They must be lifted as soon as possible;
- The person must be examined by a doctor;
- The use of means of constraint (or of force) must be recorded in a register;
- The director must be informed immediately.

Reference points

- In what cases is the use of means of constraint authorised?
 - Are all the cases recorded in a register?
 - Do the persons so treated have access to a doctor?
 - For how long are the means of constraint imposed?
-

PROTECTION MEASURES

The aim of this section is to examine the different kinds of measure which enable penal systems to function smoothly while safeguarding the rights of those deprived of their liberty. Thus, while it is essential that order be maintained within the prison, discipline can be exercised only according to clearly and strictly defined rules and procedures. Disciplinary sanctions must be accompanied by guarantees, and it must be possible for detainees to address complaints effectively, easily, and without risk of reprisals, to entities both within the establishment and outside it. Independent inspection mechanisms also play a role in monitoring respect for the rights of persons deprived of their liberty.

Lastly, other measures help to guarantee that the establishment is run in a non-arbitrary fashion and/or to monitor the way it is run, namely: separating the different categories of detainee, keeping registers, and informing people about how the establishment functions.

Protection Measures

- Informing the persons deprived of liberty;
 - Inspection;
 - Disciplinary procedures;
 - Complaints procedures;
 - Registers;
 - Separation of categories of detainees.
-

INFORMING THE DETAINEES

Standards

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

“(1) Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution.

(2) If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally.” *SRM, Rule 35; EPR, Rule 41*

Comments

It is important that people deprived of their liberty be informed from the outset of all the rules which will govern their daily life, their rights, and their duties. It is therefore important that they receive, on admission, a brochure describing how the establishment functions in simple and readable form. This brochure must be available in the languages most spoken by the detainees. Similarly, the internal rules and regulations should also be accessible and comprehensible.

The families, too, should receive information on the working of the establishment, in particular as regards visits, correspondence, the sending of packages, and telephone contacts.

Reference points

- What information do people deprived of their liberty receive on entering the place of detention?
 - In what form?
 - Are the languages actually understood and cases of illiteracy taken into consideration?
 - Are the internal regulations on display and easy to consult at all times?
 - Does their content correspond to the spirit of the standards for treatment of persons deprived of their liberty?
 - Are they clearly worded?
-

INSPECTION

Standards

2 “(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.” *BPP, Principle 29*

“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.” *SMR, Rule 55*

“Effective grievance and inspection procedures are fundamental safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them both within and outside the context of the prison system, including the possibility to have confidential access to an appropriate authority. The CPT attaches particular importance to regular visits to each prison establishment by an independent body (e.g. a Board of visitors or supervisory judge) possessing powers to hear (and if necessary take action upon) complaints from prisoners and to inspect the establishment's premises. Such bodies can inter alia play an important role in bridging differences that arise between prison management and a given prisoner or prisoners in general.” *CPT, GR 2, §54*

Comments

As seen in part 1, the inspection systems, in so far as they are led by independent and honest people, provide an effective means for preventing ill-treatment and monitoring the conditions of detention. The internal inspection system should be complemented by external inspection mechanisms.

2

Reference points

- Is there an independent inspection mechanism?
 - What is its composition?
 - How frequent are the inspections?
 - Do persons deprived of their liberty have access to this body?
 - Can it receive and examine complaints?
-

DISCIPLINARY PROCEDURES

Standards

2 “(1) The types of conduct of the detained or imprisoned person that constitute disciplinary offences during detention or imprisonment, the description and duration of disciplinary punishment that may be inflicted and the authorities competent to impose such punishment shall be specified by law or lawful regulations and duly published.

(2) A detained or imprisoned person shall have the right to be heard before disciplinary action is taken. He shall have the right to bring such action to higher authorities for review.” *BPP, Principle 30*

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

“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.” *SMR, Rule 29*

“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.” *SMR, Rule 31 (see also rule 28, 30.)*

“It is also in the interests of both prisoners and prison staff that clear disciplinary procedures be both formally established and applied

in practice; any grey zones in this area involve the risk of seeing unofficial (and uncontrolled) systems developing. Disciplinary procedures should provide prisoners with a right to be heard on the subject of the offences it is alleged they have committed, and to appeal to a higher authority against any sanctions imposed.

Other procedures often exist, alongside the formal disciplinary procedure, under which a prisoner may be involuntarily separated from other inmates for discipline-related/security reasons (e.g. in the interests of ‘good order’ within an establishment). These procedures should also be accompanied by effective safeguards. The prisoner should be informed of the reasons for the measure taken against him, unless security requirements dictate otherwise, be given an opportunity to present his views on the matter, and be able to contest the measure before an appropriate authority.” *CPT, GR 2, §55*

Comments

The disciplinary rules must be founded on the principle of proportionality between the need for order and smooth organisation within the place and the need to respect the dignity of the individuals.

The rules must be explicit not only on what constitutes an offence but also on the ensuing punishment, the hierarchical level which imposes the disciplinary sanctions, and the procedure by which the person can make his/her viewpoint heard and appeal if wished. The rules must be made known orally and in writing in the languages understood by those detained. They must be displayed in areas accessible to all.

Disciplinary proceedings should, as much as possible, comply with due process guarantees. For example, if the right to be heard does not necessarily imply the right to be represented by a lawyer, legal representation in disciplinary hearings should be encouraged.

Disciplinary sanctions become ill-treatment if they are disproportional.

tionate to the offence committed, if they are arbitrary, or if they are an unjustifiable source of frustration or suffering.

2

Reference points

- What behaviour and acts are sanctioned?
 - Who determines the sanctions and on what basis (written/oral report)?
 - Does the person have the possibility to defend him- or herself?
 - Is the person informed of the charges against him/her?
 - What is the nature and length of the sanctions imposed?
 - How does the appeal mechanism work?
 - Are there appeals which have resulted in a positive outcome for the detained person?
 - How many persons were punished over a given period as compared with the total number of persons deprived of their freedom?
-

COMPLAINTS PROCEDURES

Standards

“(1) A detained or imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.

(2) In those cases where neither the detained or imprisoned person nor his counsel has the possibility to exercise his rights under paragraph 1 of the present principle, a member of the family of the detained or imprisoned person or any other person who has knowledge of the case may exercise such rights.

(3) Confidentiality concerning the request or complaint shall be maintained if so requested by the complainant.

(4) Every request or complaint shall be promptly dealt with and replied to without undue delay. If the request or complaint is rejected or, in case of inordinate delay, the complainant shall be entitled to bring it before a judicial or other authority. Neither the detained or imprisoned person nor any complainant under paragraph 1 of the present principle shall suffer prejudice for making a request or complaint.” *BPP, Principle 33*

“1. Every prisoner shall have the opportunity each week day of making requests or complaints to the director of the institution or the officer authorized to represent him.

2. It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present.

3. Every prisoner shall be allowed to make a request or complaint,

without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.

4. Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.” *SMR, Rule 36*

Comments

The persons deprived of their freedom must be clearly informed of the rules governing the place of detention and they must have recognised means to discuss or contest aspects of their life in detention. The presence or absence of complaints procedures is an important indicator of the level of respect accorded to the detainees, as regards both form and content.

Several levels of complaint should be possible. The first concerns internal complaints, addressed directly to the director of the establishment. The detainee must, however, have the possibility of making a complaint, uncensored, to a higher instance, if he/she deems it necessary. Complaints or appeal systems differ depending on the level of the authority handling the complaint and its sphere of competence.

This point can be examined in conjunction with the section on inspections, as the inspection bodies should have the possibility of receiving and examining complaints.

Reference points

- What appeal do persons deprived of their liberty have?
- What is the nature of the appeal – administrative / judicial?

- What is the appeal procedure – to whom and how?
 - Is the procedure easily accessible to any person deprived of his or her liberty?
 - Are there possibilities for external appeal to the administration of the place?
 - Are there possibilities for external appeal to the administration responsible for supervision?
 - What is the time-frame for handling complaints?
 - How many complaints have been lodged over the last six months (compared with the average number of persons held in the place)?
 - How many complaints have been decided in favour of the complainant?
-

DETENTION REGISTERS

Standards

“(1) There shall be duly recorded:

- (a) The reasons for the arrest;
- (b) The time of the arrest and the taking of the arrested person to a place of custody as well as that of his first appearance before a judicial or other authority;
- (c) The identity of the law enforcement officials concerned;
- (d) Precise information concerning the place of custody.

(2) Such records shall be communicated to the detained person, or his counsel, if any, in the form prescribed by law.” *BPP, Principle 12*

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

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

(2) No person shall be received in an institution without a valid commitment order of which the details shall have been previously entered in the register.” *SMR, Rule 7*

“(1) No person shall be received in an institution without a valid commitment order.

(2) The essential details of the commitment and reception shall immediately be recorded.” *EPR, Rule 7*

Comments

The official registration of persons deprived of their liberty, regardless of the actual form –i.e., paper or electronic register– is an essential element in guaranteeing transparency of the authorities and protection of those detained.

The following must be recorded:

- the identity of the person;
- the reasons for the deprivation of liberty;
- the time of arrest, the time when the arrested person was taken to the place of detention, and the time when he/she first appeared before a judicial or other authority;
- the identity of those responsible for application of the relevant laws;
- precise information about the place where the person is detained (quick location of all persons deprived of their liberty should be possible).

There should also be a register in which any incidents are systematically recorded (use of force, disciplinary measures, ...)

Some reference points

- Are entry and exit registers rigorously kept?
 - Are all incidents recorded in a register?
-

SEPARATION OF CATEGORIES OF DETAINEES

Standards

2 “Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.” *ICCPR, Article 10.2*

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

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

(b) Untried prisoners shall be kept separate from convicted prisoners;

(c) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence;

(d) Young prisoners shall be kept separate from adults.” *SMR, Rule 8* (See also: *Rule 85*)

“(1) In allocating prisoners to different institutions or regimes, due account shall be taken of their judicial and legal situation (untried or convicted prisoner, first offender or habitual offender, short sentence or long sentence), of the special requirements of their treatment, of their medical needs, their sex and age.

(2) Males and females shall in principle be detained separately, although they may participate together in organised activities as part of an established treatment programme.

(3) In principle, untried prisoners shall be detained separately from convicted prisoners unless they consent to being accommodated or involved together in organised activities beneficial to them.

(4) Young prisoners shall be detained under conditions which as far as possible protect them from harmful influences and which take account of the needs peculiar to their age.” *EPR, Rule 11* (See also *Rule 12 and 13*).

“As a matter of principle, women deprived of their liberty should be held in accommodation which is physically separate from that occupied by any men being held in the same establishment. That said, some States have begun to make arrangements for couples (both of whom are deprived of their liberty) to be accommodated together, and/or for some degree of mixed gender association in prisons. The CPT welcomes such progressive arrangements, provided that the prisoners involved agree to participate, and are carefully selected and adequately supervised.” *CPT, GR 10, §24*

Comments

The detaining authorities are responsible for protecting all individuals under their responsibility. They must, in particular, protect persons who are deprived of their liberty against possible abuse by the staff in charge and by other detainees. The different categories are separated according to:

- sex and age: men/women and minors;

- judicial or legal situation: charged or sentenced, first-time offender or recidivist, and according to their past history, the reasons for the detention.

The international standards recommend that different categories of detainee be, as far as possible, held in different establishments.

Minors who are deprived of their liberty must be held in structures and in conditions which are adapted specifically to their needs.

Reference points

- Are minors effectively separated from adults at all times of the day?

In places of detention where different categories of persons are detained:

- Are women effectively separated from men 24 hours a day?
- Are they under the responsibility of mainly female staff?
- Are groups of detainees who could be qualified as vulnerable given separate accommodation?

Where there are communal detention premises:

- Who assigns the accommodation and on what basis?
- Can detainees ask to change their place of accommodation?
- If so, on what basis?
- How does the staff prevent and deal with the risks of abuse, in particular sexual abuse, committed against fellow detainees of the same sex? By depriving a person of his or her liberty the authorities assume responsibility for providing for that person's vital

needs. The deprivation of liberty in itself bears a punitive character; it must therefore not be aggravated by poor conditions of detention.

MATERIAL CONDITIONS

Good living conditions in prison are essential for the preservation of the detained person's human dignity. Living areas, food, and hygiene are all factors which contribute to the detainee's well-being.

Among the detention conditions, the problem of overcrowding is certainly the most important, above all because it has a negative influence on all other aspects of detention and on the general climate in the establishment. When it reaches certain levels, overcrowding can even constitute inhuman or degrading treatment.

Material Conditions

- Food;
 - Lighting and ventilation;
 - Sanitary facilities;
 - Personal hygiene;
 - Clothing and bedding;
 - Overcrowding and accommodation.
-

FOOD

Standards

“(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.” *SMR, Rule 20*

“(1) In accordance with the standards laid down by the health authorities, the administration shall provide the prisoners at the normal times with food which is suitably prepared and presented, and which satisfies in quality and quantity the standards of dietetics and modern hygiene and takes into account their age, health, the nature of their work, and so far as possible, religious or cultural requirements.

(2) Drinking water shall be available to every prisoner.” *EPR, Rule 25*

Comments

The diet must be sufficient as regards quantity, quality, and variety so that the persons deprived of their liberty remain in good health.

When the planned length of the detention exceeds 48 hours, the composition of the meals must be examined by the establishment’s doctor to make sure that the diet is appropriate.

Meals must be served in good conditions of hygiene and at the same times as outside the penal system. The state of the kitchens, in particular their cleanliness, must be examined. It is also advisable to be present at meal time in order to observe the distribution of the meals.

The detainees must have permanent access to drinking water.

Reference points

- Quantity, quality, and variety of the meals? Who decides on the menus?
 - What is the budget for food (annual; detainee/day)?
 - Are there special diets for the sick, the elderly, children accompanying their mothers?
 - When are meal times? Are the intervals between meals appropriate?
 - Do persons have access to food and water outside meal times?
 - Are dietary restrictions for religious reasons respected?
 - Is there a canteen or shop inside the place where detainees can buy food?
 - Can the families bring food?
 - Does the establishment's doctor regularly check up on all dietary aspects of the detention?
-

LIGHTING AND VENTILATION

Standards

“In all places where prisoners are required to live or work:

a. the windows shall be large enough to enable the prisoners, inter alia, to read or work by natural light in normal conditions. They shall be so constructed that they can allow the entrance of fresh air except where there is an adequate air conditioning system. Moreover, the windows shall, with due regard to security requirements, present in their size, location and construction as normal an appearance as possible;

b. artificial light shall satisfy recognised technical standards.”
EPR, Rule 16

“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.” *SMR, Rule 11*

“The CPT frequently encounters devices, such as metal shutters, slats, or plates fitted to cell windows, which deprive prisoners of access to natural light and prevent fresh air from entering the accommodation. They are a particularly common feature of establishments holding pre-trial prisoners. The CPT fully accepts that specific security measures designed to prevent the risk of collusion and/or criminal activities may well be required in respect of certain prisoners. However, the imposition of measures of this kind should be the exception rather than the rule. This implies that the relevant authorities must

examine the case of each prisoner in order to ascertain whether specific security measures are really justified in his/her case. Further, even when such measures are required, they should never involve depriving the prisoners concerned of natural light and fresh air. The latter are basic elements of life which every prisoner is entitled to enjoy; moreover, the absence of these elements generates conditions favourable to the spread of diseases and in particular tuberculosis.

The CPT recognises that the delivery of decent living conditions in penitentiary establishments can be very costly and improvements are hampered in many countries by lack of funds. However, removing devices blocking the windows of prisoner accommodation (and fitting, in those exceptional cases where this is necessary, alternative security devices of an appropriate design) should not involve considerable investment and, at the same time, would be of great benefit for all concerned.” *CPT, GR 11, §30*

Comments

It is essential that detainees have access to natural light and fresh air. The windows must thus not be obstructed and it must be possible to open them. Detainees must be able to switch the lights inside the cell on and off themselves.

Reference points

- Is the lighting good enough for reading?
 - Can detainees regulate the lighting and ventilation themselves?
 - Can the windows be opened?
-

SANITARY FACILITIES

Standards

“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.” *SMR, Rule 12*

“The sanitary installations and arrangements for access shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in clean and decent conditions.” *EPR, Rule 17*

“Ready access to proper toilet facilities and the maintenance of good standards of hygiene are essential components of a humane environment.

In this connection, the CPT must state that it does not like the practice found in certain countries of prisoners discharging human waste in buckets in their cells (which are subsequently ‘slopped out’ at appointed times). Either a toilet facility should be located in cellular accommodation (preferably in a sanitary annex) or means should exist enabling prisoners who need to use a toilet facility to be released from their cells without undue delay at all times (including at night).” *CPT, GR 2, §49*

Comments

Persons deprived of their liberty must be able to satisfy their physiological needs without delay and without a time-limit, in decent and hygienic conditions.

Detention premises should have separate toilets so that the individuals using them do not feel uncomfortable.

When toilets are situated outside the living premises, it should be checked that they can be reached without delay.

In places with a high concentration of persons deprived of their liberty, great strain is put on the sanitary installations. They therefore require permanent maintenance which must be provided for by the detaining authorities.

Reference points

- Are there enough toilets and showers for the number of persons?
 - If there are no toilets inside the detention premises:
 - How long must persons wait before being able to use the outside toilets?
 - How can people who are locked in satisfy their needs during the night?
 - by asking the surveillance personnel;
 - by using slop pails with lids?
 - How clean and hygienic are the sanitary installations?
-

PERSONAL HYGIENE

Standards

“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.” *SMR, Rule 13*

“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.” *SMR, Rule 15*

“Adequate bathing and showering 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. Wherever possible there should be free access at all reasonable times.” *EPR, Rule 18*

“Further, prisoners should have adequate access to shower or bathing facilities. It is also desirable for running water to be available within cellular accommodation.” *CPT, GR 2, §49*

“The specific hygiene needs of women should be addressed in an adequate manner. Ready access to sanitary and washing facilities, safe disposal arrangements for blood-stained articles, as well as provision of items of hygiene, such as sanitary towels and tampons, are of particular importance. The failure to provide such basic necessities can amount, in itself, to degrading treatment.” *CPT, GR 10, §31*

Comments

Maintaining good bodily hygiene is a question of health and of respect toward others and toward oneself.

Personal hygiene, and hygiene in the detention premises, must also be looked at from the point of view of the treatment of the detainees by the detaining authorities. To be kept forcibly in poor hygienic conditions is humiliating and degrading.

The detaining authorities must supply the articles necessary for persons to maintain bodily hygiene.

Women must receive regularly, and in a manner which respects their sense of intimacy, the usual and necessary hygienic articles for menstruation. If they are accompanied by young children, they should receive additional articles suitable for the children.

The frequency of showers must take into account the climate and the level of activities of the persons deprived of their liberty.

Reference points

- What items of hygiene are distributed by the authorities and how often?
 - How often do persons have access to showers? For those who are working / for those who are not working?
 - Do women have access to the necessary hygienic articles for menstruation?
-

CLOTHING AND BEDDING

Standards

“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. Under clothing 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.” *SMR, Rule 17*

“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.” *SMR, Rule 18*

“1. Prisoners who are not allowed to wear their own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep them in good health. Such clothing shall in no manner be degrading or humiliating.

2. All clothing shall be clean and kept in proper condition. Under-clothing shall be changed and washed as often as necessary for the maintenance of hygiene.

3. Whenever prisoners obtain permission to go outside the institution, they shall be allowed to wear their own clothing or other inconspicuous clothing.” *EPR, Rule 22*

“Every prisoner shall be provided with a separate bed and separate

and appropriate bedding which shall be kept in good order and changed often enough to ensure its cleanliness.” *EPR, Rule 24*

Comments

If detainees are not allowed to wear their own clothes, it is better that they should wear civilian clothing rather than uniforms. Even if clothes are provided by the prison, they should be considered as personal belongings.

The detainees should have individual beds and bedding which are clean and in good condition. Sheets must be changed regularly, at least once every 15 days.

Some Reference points

- How frequently is bedding changed?
 - Can detainees wash their clothes themselves?
-

OVERCROWDING AND ACCOMMODATION

Standards

“Overcrowding is an issue of direct relevance to the CPT's mandate. All the services and activities within a prison will be adversely affected if it is required to cater for more prisoners than it was designed to accommodate; the overall quality of life in the establishment will be lowered, perhaps significantly. Moreover, the level of overcrowding in a prison, or in a particular part of it, might be such as to be in itself inhuman or degrading from a physical standpoint.” *CPT, GR 2, §46*

“The phenomenon of prison overcrowding continues to blight penitentiary systems across Europe and seriously undermines attempts to improve conditions of detention. The negative effects of prison overcrowding have already been highlighted in previous General Reports. As the CPT's field of operations has extended throughout the European continent, the Committee has encountered huge incarceration rates and resultant severe prison overcrowding. The fact that a State locks up so many of its citizens cannot be convincingly explained away by a high crime rate; the general outlook of members of the law enforcement agencies and the judiciary must, in part, be responsible.

In such circumstances, throwing increasing amounts of money at the prison estate will not offer a solution. Instead, current law and practice in relation to custody pending trial and sentencing as well as the range of non-custodial sentences available need to be reviewed. This is precisely the approach advocated in Committee of Ministers Recommendation N° R (99) 22 on prison overcrowding and prison population inflation. The CPT very much hopes that the principles set out in that important text will indeed be applied by member States; the implementation of this Recommendation deserves to be closely monitored by the Council of Europe.” *CPT, GR 11, §28*

“1. Prisoners should normally be lodged during the night in individual cells except in cases where it is considered that there are advantages in sharing accommodations with other prisoners.

2. Where accommodation is shared it shall be occupied by prisoners suitable to associate with others in those conditions. There shall be supervision by night, in keeping with the nature of the institution.”
EPR, Rule 14

“(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 over-crowding, 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.” *SMR, Rule 9*

“In a number of countries visited by the CPT, particularly in central and eastern Europe, inmate accommodation often consists of large capacity dormitories which contain all or most of the facilities used by prisoners on a daily basis, such as sleeping and living areas as well as sanitary facilities. The CPT has objections to the very principle of such accommodation arrangements in closed prisons and those objections are reinforced when, as is frequently the case, the dormitories in question are found to hold prisoners under extremely cramped and insalubrious conditions. No doubt, various factors—including those of a cultural nature—can make it preferable in certain countries to provide multi-occupancy accommodation for prisoners rather than individual cells. However, there is little to be said in favour of—and a lot to be said against—arrangements under which tens of prisoners live and sleep together in the same dormitory.

Large-capacity dormitories inevitably imply a lack of privacy for prisoners in their everyday lives. Moreover, the risk of intimidation and violence is high. Such accommodation arrangements are prone to foster the development of offender subcultures and to facilitate the maintenance of the cohesion of criminal organisations. They can also render proper staff control extremely difficult, if not impossible; more specifically, in case of prison disturbances, outside interventions involving the use of considerable force are difficult to avoid. With such accommodation, the appropriate allocation of individual prisoners, based on a case by case risk and needs assessment, also becomes an almost impossible exercise. All these problems are exacerbated when the numbers held go beyond a reasonable occupancy level; further, in such a situation the excessive burden on communal facilities such as washbasins or lavatories and the insufficient ventilation for so many persons will often lead to deplorable conditions.

The CPT must nevertheless stress that moves away from large-capacity dormitories towards smaller living units have to be accompanied by measures to ensure that prisoners spend a reasonable part of the day engaged in purposeful activities of a varied nature outside their living unit.” *CPT, GR 11, §29*

Comments

International standards recommend individual over collective accommodation. For various reasons individual accommodation is not always possible. Collective accommodation should, however, be limited as regards the number of persons sharing it.

Where accommodation is collective, it is important to select those persons who will be sharing it in such a way as to limit the risks of abuse among detainees.

Overcrowding in detention premises is a frequent problem. This concept is based on the relationship between the surface area (in square metres) of the place and the number of persons living on it.

All the premises used by or for the detainees must be kept permanently clean. In general, it is the detainees themselves who see to the upkeep of the premises. They should therefore be given the means and products necessary to carry out this task.

Reference points

- Are the living quarters adequate as regards:
 - the number of m² per person?
 - the number of hours that persons must spend in their cells (number of hours spent locked in over a 24-hour period)?
 - ventilation and the amount of air available when the premises are closed?
 - the planned length of detention?
 - Is maintenance material available?
-

REGIME AND ACTIVITIES

The detention regime comprises in particular the possibility for contacts with the outside world. The more open the regime, the more possibilities there are for contact. Maintaining links with the outside, namely with family and relations, is essential from the point of view of the social rehabilitation and reintegration of the detainee.

The various activities that detainees can carry out are also included in this chapter. Inactivity and boredom are the worst consequences of the deprivation of liberty. It is thus essential that persons deprived of liberty can spend time outside their cells, engaged in activities that lead to personal development—for instance, work and education, but also leisure activities.

Regime and Activities

- Contacts with the outside world;
 - Education;
 - Outdoor exercise;
 - Leisure activities;
 - Religion;
 - Work.
-

CONTACTS WITH THE OUTSIDE WORLD

Standards

“Notwithstanding the exceptions contained in principle 16, paragraph 4, and principle 18, paragraph 3, communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.” *BPP, Principle 15*

“A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.” *BPP, Principle 19*

“Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.” *SMR, Rule 37*

“It is also very important for prisoners to maintain reasonably good contact with the outside world. Above all, a prisoner must be given the means of safeguarding his relationships with his family and close friends. The guiding principle should be the promotion of contact with the outside world; any limitations upon such contact should be based exclusively on security concerns of an appreciable nature or resource considerations.

The CPT wishes to emphasise in this context the need for some flexibility as regards the application of rules on visits and telephone contacts vis-à-vis prisoners whose families live far away (thereby rendering regular visits impracticable). For example, such prisoners could be allowed to accumulate visiting time and/or be offered improved possibilities for telephone contacts with their families.” *CPT, GR 2, § 51*

Comments

Most detainees will one day return to freedom. They must therefore be allowed and encouraged to maintain as many links and contacts as possible with the outside world. These contacts must not be limited to the family, but should also include friends and other connections.

Families can keep in touch via postal correspondence or telephone conversations. Visits, however, are certainly the best means for maintaining links. They should permit physical contact with the visitors, and the conditions in which they take place should reconcile the demands of security and of human dignity. Private or family visiting rooms should also be encouraged.

Foreign detainees should be given sustained attention, as they can be in a situation of moral and material destitution. Extended visits could be offered to families who have to travel a long way. If the family lives too far away, visits could be replaced by telephone conversations.

Reference points

Correspondence

- Is private mail subject to censorship?
- If so, what are the criteria for censorship and are they known to those deprived of their liberty?
- What are the conditions for receiving parcels?

Maintaining family and social links

- How often are visits from outside authorised?
- What is the length of such visits?

- Are there visit restrictions for certain categories of detainee?
- If so, on what basis are these restrictions applied?
- How are families received in the place of detention?
- What are the material conditions of the visits?
- What is the level of supervision of the visits?
- Are social measures taken in relation to those persons who never receive outside visits?

Access to external information

- What access do persons deprived of their freedom have to the media (newspapers, television)?
 - Are there any restrictions and what are the criteria?
-

EDUCATION

Standards

“A detained or imprisoned person shall have the right to obtain within the limits of available resources, if from public sources, reasonable quantities of educational, cultural and informational material, subject to reasonable conditions to ensure security and good order in the place of detention or imprisonment.” *BPP, Principle 28*

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

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

“Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners.” *SMR, Rule 78* (see also *Rule 82.*)

“A comprehensive education programme shall be arranged in every institution to provide opportunities for all prisoners to pursue at least some of their individual needs and aspirations. Such programmes should have as their objectives the improvement of the prospects for successful social resettlement, the morale and attitudes of prisoners and their self-respect.” *EPR, Rule 77*

“Education should be regarded as a regime activity that attracts the same status and basic remuneration within the regime as work,

provided that it takes place in normal working hours and is part of an authorised individual treatment programme.” *EPR, Rule 78* (See also: *Rules 79 to 82*)

“All prisoners should have access to education, which is envisaged as consisting of classroom subjects, vocational education, creative and cultural activities, physical education and sports, social education and library facilities.” *R(89)12, §1* (see *whole text.*)

4

“A satisfactory programme of activities (work, education, sport, etc.) is of crucial importance for the well-being of prisoners. This holds true for all establishments, whether for sentenced prisoners or those awaiting trial. The CPT has observed that activities in many remand prisons are extremely limited. The organisation of regime activities in such establishments—which have a fairly rapid turnover of inmates—is not a straight-forward matter. Clearly, there can be no question of individualised treatment programmes of the sort which might be aspired to in an establishment for sentenced prisoners. However, prisoners cannot simply be left to languish for weeks, possibly months, locked up in their cells, and this regardless of how good material conditions might be within the cells. The CPT considers that one should aim at ensuring that prisoners in remand establishments are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. Of course, regimes in establishments for sentenced prisoners should be even more favourable.” *CPT, GR 2, §47.*

Comments

Education is an important element in stimulating the detainees' personal development, and helps to favour their reintegration into society. It can moreover respond to specific needs within the prison

population, such as learning the language, or learning to read and write.

Reference points

- What type of training is on offer?
 - Is the choice limited by the authorities?
 - Is the choice compatible with the goal of reinsertion of the detainees?
 - Is the teaching or training wholly taken care of by the authorities?
 - Under what conditions do detainees have access to the library?
 - Does the library contain works in the different languages spoken by the detainees?
-

OUTDOOR EXERCISE

Standards

“(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.” *SMR, Rule 21*

“Every prisoner who is not employed in outdoor work, or located in an open institution, shall be allowed, if the weather permits, at least one hour of walking or suitable exercise in the open air daily, as far as possible, sheltered from inclement weather.” *EPR, Rule 86*

“Specific mention should be made of outdoor exercise. The requirement that prisoners be allowed at least one hour of exercise in the open air every day is widely accepted as a basic safeguard (preferably it should form part of a broader programme of activities). The CPT wishes to emphasise that all prisoners without exception (including those undergoing cellular confinement as a punishment) should be offered the possibility to take outdoor exercise daily. It is also axiomatic that outdoor exercise facilities should be reasonably spacious and whenever possible offer shelter from inclement weather.” *CPT, GR 2, §48*

Comments

The minimum rule recommends at least one hour of physical exercise a day for detainees. This strict minimum should be granted at all

times and to all, including those kept in solitary confinement in a disciplinary cell or those under a high security regime. On the other hand, this rule does not apply to individuals isolated for medical reasons.

Time spent outside the cell for purposes of hygiene (toilets, shower) should not be counted as part of this hour outside. The time passed outside the cell or dormitories should not be limited to the hour of physical exercise, especially if detention lasts more than several days.

The length of time spent outside the cell or dormitory must also take into account the material conditions of detention in the cell or dormitory:

- size of the cell or dormitory and surface available per person;
- natural lighting in the cell or dormitory;
- possibility to carry out activities in the cell or dormitory.

The CPT recommends 8 hours per day spent outside the cell for persons in pre-trial detention.

Reference points

- Is the minimum rule of one hour of physical exercise in fresh air per day respected for all?
 - What is the time spent outside the cell?
 - Where the time spent outside is limited in length, try to find the reasons for such restrictions:
 - excessively repressive detention regime,
 - failing security infrastructure,
 - not enough surveillance personnel,
 - architecture of the place and space available,
 - short-term restrictions due to particular events,
 - other.
-

LEISURE ACTIVITIES

Standards

“The prison regimes shall recognise the importance to physical and mental health of properly organised activities to ensure physical fitness, adequate exercise and recreational opportunities.” *EPR, Rule 83*

"Thus a properly organised programme of physical education, sport and other recreational activity should be arranged within the framework and objectives of the treatment and training regime. To this end space, installations and equipment should be provided." *EPR, Rule 84*. See also *EPR, Rule 85*.

Comments

As in society in general, besides work and education, detainees must have access to leisure activities, in particular sport. Sport contributes to their well-being as it enables them to expend physical energy, and it can also promote good relations with the other detainees and with the staff.

Reference points

- What sport activities are available to the detainees?
- What other hobbies are available and how often?
- Are there any restrictions, and if so, based on what criteria?
- Do they have access to the media (newspapers, television)?

- Do the authorities provide newspapers, magazines, and other periodicals free of charge?
 - Are cultural activities organised (cinema, concerts)?
 - The same questions should be asked regarding leisure activities.
 - Is there access to a library?
 - Access to newspapers? A television set? Leisure room? What types of leisure?
-

RELIGION

Standards

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

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

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

4. So far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination.” *SMR, Rule 41*

“So far as practicable, every prisoner shall be allowed to satisfy the needs of his religious, spiritual and moral life by attending the services or meetings provided in the institution and having in his possession any necessary books or literature.” *EPR, Rule 46 (See also EPR, Rule 47.)*

Comments

Freedom of religion is a basic human right, and prisoners should have the possibility of exercising it. It is a right and not an obligation, and it should include the individual’s right to exercise religious convictions but also the collective right to attend religious services. The

exercise of this right as well as the right to receive visits from a religious representative depends, however, on the number of detainees. Visits and contacts with the religious representative should be in private, at least out of hearing of the prison staff.

Reference points

- What is the number of detainees of the same religion needed to appoint a representative of this religion?
 - What religions are represented in the place? Do they correspond to the religions practised by the detainees?
 - What are the conditions of access to religious representatives?
 - When and where are services conducted? Average number of participants?
-

WORK

Standards

“(1) Prison labour must not be of an afflictive nature.

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

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

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

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

(6) Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, the prisoners shall be able to choose the type of work they wish to perform.” *SMR, Rule 71* (See also *Rules 72 to 76*)

“(1) The organisation and methods of work in the institutions shall resemble as closely as possible those of similar work in the community so as to prepare prisoners for the conditions of normal occupational life. It should thus be relevant to contemporary working standards and techniques and organised to function within modern management systems and production processes.

(2) Although the pursuit of financial profit from industries in the institutions can be valuable in raising standards and improving the quality and relevance of training, the interests of the prisoners and of their treatment must not be subordinated to that purpose.” *EPR, Rule 72*. (See also *Rules 71, 73-76 and 96*).

Comments

Persons in pre-trial detention cannot be forced to work, but they should be given the possibility of doing so at their request.

Only those detainees who are capable of working should do so. In the case of sickness, the detainee must be examined by a doctor. This can present a problem in as far as remuneration is linked to work actually performed.

Work by persons deprived of their liberty is a vast and complex topic. The following elements should be retained:

- The work should not have a punitive character;
- It should be remunerated;
- Working hours should not exceed those normal in outside life;
- The external standards of health and safety at the workplace must be applied.

Reference points

- What are the possibilities for working inside the place of detention?
 - What are the possibilities for working outside the place of detention?
 - Is the work voluntary?
 - What are the conditions of work and pay?
 - Who decides on the level of earnings?
 - Are earnings shared between the person deprived of liberty, the detaining authorities, and the State?
 - If so, how are they shared?
-

MEDICAL SERVICES

The physical and mental health of detainees is particularly important, as imprisonment deprives them of the right to run their own lives. It is, therefore, up to the detaining authorities to ensure that the detainees enjoy a satisfactory state of health, healthy living and working conditions, and appropriate medical care. The international rules furthermore specify that a detained person cannot be the subject of medical experiments which could affect his/her physical or mental integrity.

In principle, the care provided in prison must be equivalent to that available in society in general.

The question of medical care is particularly important, as imprisonment has an effect on the detainees' state of physical and mental health.

Medical Services

- Access to medical care;
 - Specific health care for women (and babies);
 - Medical staff.
-

ACCESS TO MEDICAL CARE

Standards

“The medical officer shall see and examine every prisoner as soon as possible after admission and thereafter as necessary, with a particular view to the discovery of physical or mental illness and the taking of all measures necessary for medical treatment; the segregation of prisoners suspected of infectious or contagious conditions, the noting of physical or mental defects which might impede resettlement after release; and the determination of the fitness of every prisoner to work.” *EPR, Rule 29*

5

“1. The medical officer shall have the care of the physical and mental health of the prisoners and shall see, under the conditions and with a frequency consistent with hospital standards, all sick prisoners, all who report illness or injury and any prisoner to whom attention is specially directed.

2. The medical officer shall report to the director whenever it is considered that a prisoner's physical or mental health has been or will be adversely affected by continued imprisonment or by any condition of imprisonment.” *EPR, Rule 30*

“A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge.” *BPP, Principle 22*

“When entering prison, all prisoners should without delay be seen by a member of the establishment's health care service. In its reports to date the CPT has recommended that every newly arrived prisoner be properly interviewed and, if necessary, physically examined by a medical doctor as soon as possible after his admission. It should be

added that in some countries, medical screening on arrival is carried out by a fully qualified nurse, who reports to a doctor. This latter approach could be considered as a more efficient use of available resources.

It is also desirable that a leaflet or booklet be handed to prisoners on their arrival, informing them of the existence and operation of the health care service and reminding them of basic measures of hygiene.” *CPT, GR 3, § 33*

“While in custody, prisoners should be able to have access to a doctor at any time, irrespective of their detention regime (as regards more particularly access to a doctor for prisoners held in solitary confinement, see paragraph 56 of the CPT’s 2nd General Report: CPT/Inf (92) 3). The health care service should be so organised as to enable requests to consult a doctor to be met without undue delay.

Prisoners should be able to approach the health care service on a confidential basis, for example, by means of a message in a sealed envelope. Further, prison officers should not seek to screen requests to consult a doctor.” *CPT, GR 3, § 34*

Comments

The quality of care provided to persons deprived of their liberty must be equal to that available outside the penal system.

If the visiting team does not include a health specialist, the team members must take care to request general information on the state of health of the persons deprived of their liberty: the most frequent illnesses, detection of transmissible and contagious diseases, deaths. They should also examine the system for gaining access to medical care.

Reference points

- How easily can the persons deprived of their freedom gain access to medical services?
 - ▶ at their own request: what is the procedure?
 - ▶ through the medical staff: how often do they visit the premises?
 - ▶ through the surveillance personnel: what are the criteria?
 - Is there a medical person on duty day and night?
 - Is there a set procedure for emergency medical evacuations during the day/night?
 - How is access to the psychologist regulated?
-

SPECIFIC HEALTH CARE FOR WOMEN

Standards

“(...) Insofar as women deprived of their liberty are concerned, ensuring that the principle of equivalence of care is respected will require that health care is provided by medical practitioners and nurses who have specific training in women's health issues, including in gynaecology. Moreover, to the extent that preventive health care measures of particular relevance to women, such as screening for breast and cervical cancer, are available in the outside community, they should also be offered to women deprived of liberty.” *CPT, GR 10, §32*

“1. In Women's' institutions there shall be special accommodation for all necessary prenatal and postnatal 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 his 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 care of their mothers.” *SMR, Rule 23.1*

“1. Arrangement shall be made wherever practicable for children to be born in a hospital outside the institution. However, unless special arrangements are made, there shall in penal institutions be the necessary staff and accommodation for the confinement postnatal care of pregnant women. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

2. Where infants are allowed to remain in the institution with their mothers, special 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.” *EPR, Rule 28*

“It is axiomatic that babies should not be born in prison, and the usual practice in Council of Europe member States seems to be, at an appropriate moment to transfer pregnant women prisoners to outside hospital. Nevertheless, from time to time, the CPT encounters examples of pregnant women being shackled or otherwise restrained to beds or other items of furniture during gynaecological examinations or delivery. Such an approach is completely unacceptable, and could certainly be qualified as inhuman and degrading treatment. Other means of meeting security needs can and should be found.” *CPT, GR 10, §27*

Comments

Prisons are often hardly adapted to special needs of women and this situation affects both their physical and mental health situation. In addition, they may be vulnerable to abuse, including rape, by prison staff. The prison medical staff should therefore pay special attention to the conditions of women.

Gynaecological care should be guaranteed. The special needs of pregnancy and motherhood should be specially taken care of and adapted.

Reference points

- Does the medical staff include a gynaecologist (working time and availability)?
 - What are the conditions of access to the gynaecologist?
 - Are the special needs of pregnant women taken care of?
 - Are the special needs of mothers with babies taken care of?
-

MEDICAL STAFF

Standards

“1. The medical officer shall have the care of the physical and mental health of the prisoners and shall see, under the conditions and with a frequency consistent with hospital standards, all sick prisoners, all who report illness or injury and any prisoner to whom attention is specially directed.

2. The medical officer shall report to the director whenever it is considered that a prisoner's physical or mental health has been or will be adversely affected by continued imprisonment or by any condition of imprisonment.” *EPR, Rule 30*

“(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.” *SMR, Rule 22* (see also *Rules 23, 24, and 25.*)

“(1) At every institution there shall be available the services of at least one qualified general practitioner. The medical services should be organised in close relation with the general health administration of the community.

(2) Sick prisoners who require specialist treatment shall be transferred to specialised institutions or to civil hospitals. Where hospital

facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be suitable for the medical care and treatment of sick prisoners, and there shall be a staff of suitably trained officers.

(3) The services of a qualified dental officer shall be available to every prisoner.” *EPR, Rule 26*

“A prison’s health-care service should at least be able to provide regular out-patient consultations and emergency treatment (of course, in addition there might often be a hospital-type unit with beds). The services of a qualified dentist should be available to every prisoner. Further, prison doctors should be able to call upon services of specialists.

As regards emergency treatment, a doctor should always be on call. Further, someone competent to provide first aid should always be present on prison premises, preferably someone with a recognised nursing qualification.

Out-patient treatment should be supervised, as appropriate, by health-care staff; in many cases it is not sufficient for the provision of follow-up care to depend upon the initiative being taken by the prisoner.” *CPT, GR 3, § 35*

“The health-care staff in any prison is potentially a staff at risk. Their duty to care for their patients (sick prisoners) may often enter into conflict with considerations of prison management and security. This can give rise to difficult ethical questions and choices. In order to guarantee their independence in health-care matters, the CPT considers it important that such personnel should be aligned as closely as possible with the mainstream of health-care provision in the community at large.” *CPT, GR 3, § 71*

Comments

The medical staff must enjoy maximum independence vis-à-vis the detaining authorities as regards the medical decisions they make.

The competence of the medical staff, their independence and professional ethics, and the quality of the care provided can only be evaluated by health specialists.

Reference points

- Number of doctors, nurses, a psychologist, a psychiatrist, other staff?
 - How available are they and what are their working hours?
-

PRISON STAFF

The staff in charge of people deprived of their liberty must not be overlooked in the process of monitoring conditions of detention, since they to a large extent determine how detainees will be treated.

Managing persons deprived of their liberty while respecting the rules and the spirit of these rules requires:

- specially trained staff,
- decent salary conditions,
- a size of workforce adapted to the number of persons in their charge,
- working times and conditions adapted to the difficulty of the task.

The staff can be grouped into the following categories:

- managerial staff,
- internal surveillance,
- external surveillance/security,
- medical staff,
- social staff,
- training staff (education, activities, work),
- supplies staff.

It is important for the members of the delegation to talk with the staff during the visit. This is not always easy, but it should be remembered that the detention conditions of the persons deprived of their freedom are also the working conditions of the staff, and

it can be interesting to hear their views on the workings of the establishment and any improvements they consider necessary.

Prison staff

- Generalities;
 - Training of prison staff.
-

GENERALITIES

Standards

“(1) The prison administration shall provide for the careful selection of all grades of the personnel, since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of the institutions depends.

(2) The prison administration shall constantly seek to awaken and maintain in the minds of both the public and the personnel the conviction that this work is a social service of great importance, and to this end all appropriate means of informing the public should be used.

(3) To secure the foregoing ends, personnel should be appointed on a full-time basis as professional prison officers and have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness. Salaries should be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of the work.” *SMR, Rule 46 (see also Rule 54)*

“In view of the fundamental importance of the prison staff to the proper management of the institutions and the pursuit of their organisational and treatment objectives, prison administrations shall give high priority to the fulfilment of the rules concerning personnel.” *EPR, Rule 51*

“(…) Mixed gender staffing is an important safeguard against ill-treatment in places of detention. The presence of male and female staff can have a beneficial effect in terms of both the custodial ethos and in fostering a degree of normality in a place of detention.” *CPT, GR 10, § 23*

“The cornerstone of a humane prison system will always be properly recruited and trained prison staff who know how to adopt the appropriate attitude in their relations with prisoners and see their own work more as a vocation than as a mere job. Building positive relations with prisoners should be recognised as a key feature of that vocation.

Regrettably, the CPT often finds that relations between staff and prisoners are of a formal and distant nature, with staff adopting a regimented attitude towards prisoners and regarding verbal communication with them as a marginal aspect of their work. The following practices frequently witnessed by the CPT are symptomatic of such an approach: obliging prisoners to stand facing a wall whilst waiting for prison staff to attend to them or for visitors to pass by; require prisoners to bow their heads and keep their hands clasped behind their back when moving within the establishment; custodial staff carrying their truncheons in a visible and even provocative manner. Such practices are unnecessary from a security standpoint and will do nothing to promote positive relations between staff and prisoners.

The real professionalism of prison staff requires that they should be able to deal with prisoners in a decent and humane manner while paying attention to matters of security and good order. In this regard prison management should encourage staff to have a reasonable sense of trust and expectation that prisoners are willing to behave themselves properly. The development of constructive and positive relations between staff and prisoners will not only reduce the risk of ill-treatment but also enhance control and security. In turn, it will render the work of prison staff more rewarding.

Ensuring positive staff-inmate relations will also depend greatly on having an adequate number of staff present at any given time in any detention areas and in facilities used by prisoners for activities. CPT delegations often find that this is not the case. An overall low staff complement and/or specific staff attendance systems which diminish the possibilities of direct contact with prisoners, will certainly impede the development of positive relations; more generally, they will generate an insecure environment for both staff and prisoners.

It should also be noted that, where staff complements are inadequate, significant amounts of overtime can prove necessary to maintain a basic level of security and regime delivery in the establishment. This state of affairs can easily result in high levels of stress in staff and their premature burnout, a situation which is likely to exacerbate the tension inherent in any prison environment.” *CPT, GR 11, § 26*

Comments

The role played by the penitentiary staff is central to the general climate in the place of detention. This is why it is particularly important that the staff be recruited according to clear criteria for their skills and profile. Their pay must also be appropriate. The workforce must be sufficient in number so as to respond to the needs both as regards security and human contact with the detainees.

Any relational problems between the staff and the detainees or their families should be analysed in the light of this information.

The behaviour of the staff with regard to persons deprived of their liberty will also depend on the official and informal instructions they receive. They will be influenced by the approach and behaviour of their own hierarchy, as well as by their fellow citizens’ attitude to detainees.

Reference points

The NGO should try to obtain the following information for each category of staff:

- number and ratio to persons deprived of liberty;
 - recruitment criteria—level of education and personal profile;
 - training after recruitment;
 - average salary.
-

TRAINING OF PRISON STAFF

Standards

“Finally, the CPT wishes to emphasize the great importance it attaches to the training of law-enforcement personnel (which should include education on human rights matters—cf also Article 10 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). There is arguably no better guarantee against the ill-treatment of a person deprived of his liberty than a properly trained police or prison officer. Skilled officers will be able to carry out successfully their duties without having recourse to ill-treatment and to cope with the presence of fundamental safeguards for detainees and prisoners.” *CPT, GR 2, § 59*

6

“In this connection, the CPT believes that aptitude for interpersonal communication should be a major factor in the process of recruiting law-enforcement personnel and that, during training, considerable emphasis should be put on developing interpersonal communication skills, based on respect for human dignity. The possession of such skills will often enable a police or prison officer to defuse a situation which could other-wise turn into violence, and, more generally, will lead to a lowering of tension and raising of the quality of life, in police and prison establishments, to the benefit of all concerned.” *CPT, GR 2, § 60*

Comments

Qualified staff with a good level of training form the basis of a humane penal system. This training must include areas such as interpersonal communication, non-violent conflict management, and stress management.

Reference points

- What areas are included in basic training for penitentiary staff?
 - What are the recruitment criteria (level of education and personal profile)?
 - What are the possibilities for ongoing training? Are they actually used?
-

POLICE CUSTODY

Deprivation of liberty by the police is of short duration, i.e., it is a matter of hours rather than days. If it lasts more than 24 hours, the person arrested by the police must be brought before a judge who decides whether the person is to be detained or released. It is, however, most often in the hours immediately after arrest that the risk of ill-treatment is greatest. In this respect, the section on allegations of ill-treatment also applies to detention by the police.

Because of this temporary nature, visits to police stations are different from visits to prisons. Persons are held here for a short time; they can feel more vulnerable in speaking to the delegation; the material conditions of detention are more basic.

It is, however, all the more important to visit police stations and to talk with the persons held there. The guarantees, in particular as regards procedure, take on a particular importance in this context.

Police Custody

- Fundamental safeguards;
 - Registers
 - Interrogations
 - Information
 - Material conditions
-

FUNDAMENTAL SAFEGUARDS

Standards

“The CPT attaches particular importance to three rights for persons detained by the police: the right of the person concerned to have the fact of his detention notified to a third party of his choice (family member, friend, consulate), the right of access to a lawyer, and the right to request a medical examination by a doctor of his choice (in addition to any medical examination carried out by a doctor called by the police authorities). They are, in the CPT's opinion, three fundamental safeguards against the ill-treatment of detained persons which should apply as from the very outset of deprivation of liberty, regardless of how it may be described under the legal system concerned (apprehension, arrest, etc).” *CPT, GR 2, § 36*

7 “The CPT has repeatedly stressed that, in its experience, the period immediately following deprivation of liberty is when the risk of intimidation and physical ill-treatment is greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment. The existence of that possibility will have a dissuasive effect upon those minded to ill treat detained persons; further, a lawyer is well placed to take appropriate action if ill-treatment actually occurs. The CPT recognises that in order to protect the legitimate interests of the police investigation, it may exceptionally be necessary to delay for a certain period a detained person's access to a lawyer of his choice. However, this should not result in the right of access to a lawyer being totally denied during the period in question. In such cases, access to another independent lawyer should be arranged.

The right of access to a lawyer must include the right to talk to him in private. The person concerned should also, in principle, be entitled to have a lawyer present during any interrogation conducted by the police. Naturally, this should not prevent the police from questioning a detained person on urgent matters, even in the absence of a lawyer

(who may not be immediately available), nor rule out the replacement of a lawyer who impedes the proper conduct of an interrogation.

The CPT has also emphasised that the right of access to a lawyer should be enjoyed not only by criminal suspects but also by anyone who is under a legal obligation to attend - and stay at - a police establishment, e.g. as a “witness”.

Further, for the right of access to a lawyer to be fully effective in practice, appropriate provision should be made for persons who are not in a position to pay for a lawyer.” *CPT GR 12, § 41*

“Persons in police custody should have a formally recognised right of access to a doctor. In other words, a doctor should always be called without delay if a person requests a medical examination; police officers should not seek to filter such requests. Further, the right of access to a doctor should include the right of a person in custody to be examined, if the person concerned so wishes, by a doctor of his/her own choice (in addition to any medical examination carried out by a doctor called by the police).

All medical examinations of persons in police custody must be conducted out of the hearing of law enforcement officials and, unless the doctor concerned requests otherwise in a particular case, out of the sight of such officials.

It is also important that persons who are released from police custody without being brought before a judge have the right to directly request a medical examination/certificate from a recognised forensic doctor.” *CPT GR 12, §42*

“A detained person's right to have the fact of his/her detention notified to a third party should in principle be guaranteed from the very outset of police custody. Of course, the CPT recognises that the exercise of this right might have to be made subject to certain exceptions, in order to protect the legitimate interests of the police investigation. However, such exceptions should be clearly defined and strictly limit-

ed in time, and resort to them should be accompanied by appropriate safeguards (e.g. any delay in notification of custody to be recorded in writing with the reasons therefor, and to require the approval of a senior police officer unconnected with the case or a prosecutor).” *CPT GR 12, § 43*

Comments

It is often during the hours immediately following arrest that the persons are the most vulnerable and that the risk of abuse of power by the police is the greatest. It is therefore important that the power of the police to detain persons temporarily be accompanied by appropriate safeguards. The CPT considers that the following safeguards are of particular importance, from the outset of the deprivation of liberty:

- informing a third person;
- access to a lawyer;
- access to a medical doctor.

Reference points

- Has the person been able to inform his/her family or a third person?
 - Has he/she had contact with a lawyer?
 - Has he/she been seen by a doctor?
 - Has the maximum legal length of custody been respected?
 - Is there separation of men and women? Minors and adults?
 - Is there protection against other persons deprived of liberty?
-

REGISTERS

Standards

“The CPT considers that the fundamental safeguards granted to persons in police custody would be reinforced (and the work of police officers quite possibly facilitated) if a single and comprehensive custody record were to exist for each person detained, on which would be recorded all aspects of his custody and action taken regarding them (when deprived of liberty and reasons for that measure; when told of rights; signs of injury, mental illness, etc; when next of kin/consulate and lawyer contacted and when visited by them; when offered food; when interrogated; when transferred or released, etc.). For various matters (for example, items in the person's possession, the fact of being told of one's rights and of invoking or waiving them), the signature of the detainee should be obtained and, if necessary, the absence of a signature explained. Further, the detainee's lawyer should have access to such a custody record.” *CPT, GR 2, § 40*

Comments

Registration constitutes an important safeguard as it leaves a written trace of all important information regarding the treatment of the person and the procedure. There are different types of information to be registered and these pieces of information are usually found in different registers. The registration and processing of personal data is of importance, but it is mainly all the information regarding the procedure that should be checked (time and reason for arrest, interrogation, transfer, informing third persons), as well as any other event during the deprivation of liberty. It is important to see also whether the person has the possibility to appeal against the detention while in custody and whether/in what way this information is registered.

Reference points

- Is the following information registered: when arrested, when interrogated, when transferred or released; when a third person was informed; when and how the person was informed about his/her rights? When visited by a doctor, by a lawyer, by a third person; provision of food; what food was provided and when?
 - Is it recorded in systematic and rigorous fashion?
 - Has the maximum length of detention been respected?
-

INTERROGATIONS

Standards

“1. The duration of any interrogation of a detained or imprisoned person and of the intervals between interrogations as well as the identity of the officials who conducted the interrogations and other persons present shall be recorded and certified in such form as may be prescribed by law.

2. A detained or imprisoned person, or his counsel when provided by law, shall have access to the information described in paragraph 1 of the present principle.” *BPP, Principle 23*

“Turning to the interrogation process, the CPT considers that clear rules or guidelines should exist on the way in which police interviews are to be conducted. They should address inter alia the following matters: the informing of the detainee of the identity (name and/or number) of those present at the interview; the permissible length of an interview; rest periods between interviews and breaks during an interview; places in which interviews may take place; whether the detainee may be required to stand while being questioned; the interviewing of persons who are under the influence of drugs, alcohol, etc. It should also be required that a record be systematically kept of the time at which interviews start and end, of any request made by a detainee during an interview, and of the persons present during each interview. *CPT, GR 2, §39*

“The electronic (i.e. audio and/or video) recording of police interviews represents an important additional safeguard against the ill-treatment of detainees. The CPT is pleased to note that the introduction of such systems is under consideration in an increasing number of countries. Such a facility can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. This is in the interest both of persons who have been ill-treated by the police and of police officers confronted with unfounded allegations that they have

engaged in physical ill-treatment or psychological pressure. Electronic recording of police interviews also reduces the opportunity for defendants to later falsely deny that they have made certain admissions.” *CPT GR 12 § 36*

“The questioning of criminal suspects is a specialist task which calls for specific training if it is to be performed in a satisfactory manner. First and foremost, the precise aim of such questioning must be made crystal clear: that aim should be to obtain accurate and reliable information in order to discover the truth about matters under investigation, not to obtain a confession from someone already presumed, in the eyes of the interviewing officers, to be guilty. In addition to the provision of appropriate training, ensuring adherence of law enforcement officials to the above-mentioned aim will be greatly facilitated by the drawing up of a code of conduct for the questioning of criminal suspects. “ *CPT, GR 12, §34*

Comments

Interrogation can constitute a particularly delicate moment in which the person being interrogated is especially vulnerable. The visiting team can request information on the interrogation, in particular the length, the use of force, and verbal threats or abuse.

Reference points

- Has the person suffered physical violence?
- During arrest? During interrogation?
- Has the person suffered or is he/she suffering psychological violence: abuse, threats?
- What are the conditions of interrogation?

- Does the register mention the name of the person conducting the interrogation, the length of the interrogation, the pauses?
-

INFORMATION

Standards

“Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.” *BPP, Principle 10*

“Rights for persons deprived of their liberty will be of little value if the persons concerned are unaware of their existence. Consequently, it is imperative that persons taken into police custody are expressly informed of their rights without delay and in a language which they understand. In order to ensure that this is done, a form setting out those rights in a straightforward manner should be systematically given to persons detained by the police at the very outset of their custody. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights.” *CPT, GR 12, § 44*

Comments

The arrested person is entitled to receive two types of information. Firstly, he or she must be informed of the reasons for the arrest. Secondly, he or she is also entitled to be informed of his/her rights. This information must be conveyed in a language he/she understands. This can be done in writing using a form, but, if the person is illiterate, it must be done orally.

Reference points

- Has the person been informed promptly of the reasons for his/her arrest?

- Has the person been informed of his/her rights?
Orally? In writing?
 - In a language he/she understands?
-

MATERIAL CONDITIONS

Standards

“All police cells should be clean and of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) ; preferably cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets. Persons in police custody should have access to a proper toilet facility under decent conditions, and be offered adequate means to wash themselves. They should have ready access to drinking water and be given food at appropriate times , including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held in police custody for 24 hours or more should, as far as possible , be offered outdoor exercise every day.” *CPT, GR 12, § 47*

7 “The issue of what is a reasonable size for a police cell (or any other type of detainee/prisoner accommodation) is a difficult question. Many factors have to be taken into account when making such an assessment. However, CPT delegations felt the need for a rough guideline in this area. The following criterion (seen as a desirable level rather than a minimum standard) is currently being used when assessing police cells intended for single occupancy for stays in excess of a few hours: in the order of 7 square metres, 2 metres or more between walls, 2,5 metres between floor and ceiling.” *CPT, GR 2, §43*

Comments

As the detention is of short duration, the material conditions are more basic. For instance, the cells can be smaller than cells where persons must spend several days. The smaller the cell, the less time may be spent there. The CPT uses the following criteria to assess indi-

vidual police cells used to keep people for more than a few hours: around 7 square metres surface area (with 2 metres or more between walls and 2.5 metres between floor and ceiling).

Police cells must have natural light and ventilation, and the temperature must be appropriate to the climate and the season. If someone has to spend a night in the cell, it must be equipped with a mattress and blankets.

Police cells rarely have toilets; thus the question of access to toilets is particularly important.

Reference points

- What is the number of persons per cell? Problems of overcrowding?
 - Do the cells have access to natural light?
 - Is the temperature adequate?
 - Do the cells have chairs/benches and mattresses?
 - Has the person been given food? A hot meal?
 - Does the person have access to drinking water?
 - What are the conditions for access to toilets?
-

Annexes

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- 2
- 3
- 4

ANNEX 1

Checklist

TREATMENT

- Allegations of torture and ill-treatment
- Use of force or of other means of restraint
- Use of solitary confinement

PROTECTION MEASURES

Information of detainees

- Information at arrival
- Possibility to inform a third person
- Accessibility of the internal rules of procedures?

Disciplinary procedure and sanctions

- Brief description of the procedure
- Composition of the disciplinary authority
- Possibilities for appeal
- Types of sanctions and frequency (proportionality)
- Examination by a doctor upon arrest
- Statistics of sanctions by type and reasons
- Disciplinary cells

Complaint and inspection procedures

- Existence of complaints and inspection procedures
- Independence of the procedures
- Accessibility of the procedures (easy and effective access?)

Separation of categories of detainees

Registers

MATERIAL CONDITIONS

Capacity of the establishment (at the time of the visit)

- Number of detainees by categories
- % of foreigners
- Breakdown by sex, age

Cells (by sections)

- Size and occupancy levels / effective average number per cell
- Material conditions : lighting, ventilation, furniture, sanitary facilities
- Hygiene conditions

Food

- Meals (quality, quantity, variety, frequency)
- Special dietary regimes (for medical, cultural, or religious reasons)

Personal hygiene

- showers (cleanliness, frequency for working detainees, for others)
- sanitary facilities (inside cells, outside, access, cleanliness)
- bedding (quality, cleanliness, frequency of change)
- possibility of laundry

REGIME AND ACTIVITIES

Administration of time

- Time spent in the cell daily
- Time spent for daily exercise
- Time spent daily working
- Time spent daily outside the cell
- Time used for sports per week
- Time used for other activities

Activities offered

- Work: type of work, % of detainees working; obligation to work ; remuneration ; social coverage; description of the working premises
- Education: access to studies, types of studies offered (alphabetisation, high school, university studies), frequency of courses, organisers of courses, teaching staff, % of detainees studying, description of the school rooms
- Leisure: types of leisure activities, access, description of leisure rooms and sport facilities; library
- Religious activities: religious representatives (religions represented, conditions of access; frequency and duration of visits); religious services (access, premises)

Contacts with the outside world

- Visits: frequency, conditions for the right of having visits, duration and course of visits, visits by relatives/children/spouses, description of visit rooms
- Correspondence and parcels: frequency, censorship
- Telephone conversations: frequency, conditions

MEDICAL SERVICES

Access to medical care

- Medical examination upon entry
- Procedure and access to medical care
- Infirmary: Number of beds, equipment
- Number of inmates on treatment

Medical staff

Number and availability of doctors, nurses, psychiatrists and psychologists, other per-sonnel

PRISON STAFF

- Number of staff (by categories)
- Relationship between guards and detainees; relationship between the management and the detainees
- Training of the staff (initial and on-going)

ANNEX 2: Example of internal visit report

GENERALITIES

Generalities on the establishment

- Name of the establishment:
- Type of establishment:
- Address:

Authorities on which the establishment depends:

- Name of the person in charge of the place
- Name of the deputy

Generalities on the visit

- Date of the visit:
- Date of the previous visit :
- Names of the members of the visiting team:

INFORMATION ON THE ESTABLISHMENT

Capacity of the establishment

- Administrative capacity:
- Average capacity:
- Number of persons deprived of their liberty at the first day of the visit (by category/sex/nationality)

- Percentage of foreign prisoners:
- Origin of foreign prisoners:
- Distribution according to sex:
- Minor detainees:
- Elderly detainees:

Structure of the establishment

- Description of the building (number of buildings, age, state, maintenance, security conditions)
- Description of the cells and common facilities

INFORMATION ON THE VISIT

Talk at the start of the visit—Issues discussed Conditions of detention and recommendations

- According to the persons deprived of their liberty
- According to the director and personnel
- According to the facts observed by the visiting team

Talk at the end of the visit

- Issues discussed
- Answers received

Actions to undertake

- Short term
- Mid term

Contacts to take

Frequency of visits

Points to verify at the next visit

ANNEX 3

Usefull addresses

1. INTERNATIONAL ORGANISATIONS

International Committee of the Red Cross

17 Avenue de la Paix, 1211 Geneva, Switzerland
Telephone: (41) 22 734 60 01 Fax: (41) 22 734 82 80
E-mail: webmaster.gva@icrc.org
Website: www.icrc.org

United Nations Office of the High Commissioner for Human Rights

Palais Wilson
1211 Geneva 10, Switzerland
Telephone: (41) 22 917 90 00 Fax: (41) (0)22 917 90 12
E-mail: webadmin.hachr@unog.ch
Website: www.unhchr.ch

United Nations High Commissioner for Refugees

P.O Box 2500, 1211 Geneva 2, Switzerland
Telephone: (41) 22 739 81 11 Fax: (41) 22 739 73 67
Website: www.unhcr.ch

2. REGIONAL ORGANISATIONS

Council of Europe

67075 Strasbourg Cedex, France
Telephone: (33) 3 88 41 20 00
Website: www.coe.int

European Court of Human Rights

Telephone: (33) 3 88 41 20 32 Fax: (33) 3 88 41 27 91
Website: www.echr.coe.int

European Committee for the Prevention of Torture (CPT)

Telephone: (33) 3 88 41 23 88 Fax: (33) 3 88 41 27 72

E-mail: cpt.doc@coe.int

Website: www.cpt.coe.int

European Parliament

L-2929, Luxembourg

Telephone: (352) 4300-1 Fax: (352) 43 70 09

Website: www.europa.eu.int

Organization for Security and Cooperation in Europe

Office for Democratic Institutions and Human Rights

Aleje Ujazdowskie 19, 00557 Warsaw, Poland

Telephone: (48-22) 520 06 00 Fax: (48-22) 520 06 03

E-mail: office@odihr.pl

Website: www.osce.org/odihr

3. NON-GOVERNMENTAL ORGANISATIONS

3.1. International NGOs

Amnesty International (International Secretariat)

1 Easton Street, London WC1X 8 DJ, United Kingdom

Telephone: (44) 171 413 55 00 Fax: (44) 171 956 11 57

E-mail: amnestyis@amnesty.org

Website: www.amnesty.org

Association for the Prevention of Torture (APT)

10 Route de Ferney, P.O. Box 2267, 1211 Geneva 2, Switzerland

Telephone: (41) 22 919 21 70 Fax: (41) 22 919 21 80

E-mail: apt@apt.ch

Website: www.apt.ch

Human Rights Watch (HRW)

485 Fifth Avenue, 3rd Floor, New York, NY 10017, USA

Telephone: (1) 212 290 47 00 Fax: (1) 212 736 13 00

E-mail: hrwny@hrw.org

Website: www.hrw.org

International Commission of Jurists (ICJ)

26 Chemin de Joinville, P.O Box 160, 1216 Geneva, Switzerland

Telephone: (41) 22 979 38 00 Fax: (41) 22 979 38 01

E-mail: info@icj.org

Website: www.icj.org

International Federation of League of Human Rights (FIDH)

17 Passage de la Main d'Or, 75011 Paris, France

Telephone: (33) 1 43 55 25 18 Fax: (33) 1 43 55 18 80

E-mail: fidh.mail@fidh.org

Website: www.fidh.org

International Federation of Action by Christians for the Abolition of Torture (Fi.ACAT)

27 Rue de Maubeuge, 75009 Paris, France

Telephone: (33) 1 42 80 01 60 Fax: (33) 1 42 80 20 89

E-mail: fi.acat@wanadoo.fr

International Helsinki Federation for Human Rights

Wickenburggasse 14/7, 1080 Vienna, Austria

Telephone: (43) 1 408 88 22 Fax: (43) 1 408 88 22 50

E-mail: office@ihf-hr.org

Website: www.ihf-hr.org

Inter-Parliamentary Union (IPU)

Place du Petit-Saconnex, P.O. Box 438

1211 Geneva 19, Switzerland

Telephone: (41 22) 734 41 50 Fax: (41 22) 733 31 41

E-mail: postbox@mail.ipu.org

Website: www.ipu.org

International Rehabilitation Council for Torture Victims

Borgergade 13, P.O. Box 2107, 1014 Copenhagen, Denmark

Telephone: (45) 33 76 06 00 Fax: (45) 33 76 05 00

E-mail: irct@irct.org

Website: www.irct.org

International Service for Human Rights

1 rue de Varembé, P.O. Box 16, 1211 Geneva 20, Switzerland

Telephone: (41 22) 733 51 23 Fax: (41 22) 733 08 26

E-mail: dir@ishr-sidh.ch

Website: www.ishr.ch

World Organisation against Torture (OMCT—SOS Torture)

8, rue du Vieux-Billard, P.O. Box 21, 1211 Geneva 8, Switzerland

Telephone: (41 22) 809 49 39 Fax: (41 22) 809 49 29

E-mail : omct@omct.org

Website: www.omct.org

Penal Reform International

169 Clapham Road, London SW9 OPU, United Kingdom

Telephone: (44) 207 721 76 78 Fax: (44) 207 721 87 85

E-mail: Headofsecretariat@pri.org.uk

Website: www.penalreform.org

The Redress Trust

6 Queen Square, London WC1N 3AR, United Kingdom

Telephone: 44 (0) 171 278 9502 Fax: 44 (0) 171 278 9410

E-mail: redresstrust@gn.apc.org

Website: www.redress.org

3.2. National NGOs

(National NGOs engaged in monitoring programmes and which participated in the workshop held in Chisinau in 2000)

Albanian Helsinki Committee

Monitoring Programme of Prisons and Pre-Detention Sites

Rr. Sami Frasheri, Pall.20/1, Hyrja B, Ap. 21, Tirana, Albania

Telephone: +355 42 408 91 Fax: +355 42 336 71

E-mail: helsinki@ngo.org.al

Bulgarian Helsinki Committee

7 Varbitsa Street, 1504 Sofia, Bulgaria

Telephone/Fax: +359 2 943 4876

E-mail: helsinki@mbox.cit.bg

Czech Helsinki Committee

Jeleni 5/199,11900 Praha, Czech Republic

Telephone: +420 2 24 37 23 38 Fax: +420 2 24 37 23 35

E-mail: pravni@helsinki.anet.cz

Hungarian Helsinki Committee

Jozsef A. Krt. 34 I/5,1085 Budapest, Hungary

Telephone: +361 334 45 75 Fax: +361 314 08 85

E-mail: helsinki@mail.datanet.hu

Moldovan Helsinki Committee

53 "B" Banulescu-Bodoni Str., 2012 Chisinau, Moldova

Telephone: ++ 373 2 22 73 96 Fax: +373 2 22 26 28

E-mail: chdom@moldnet.md

Polish Helsinki Foundation for Human Rights

Ul. Bracka 18 m 62, 00028 Warsaw, Poland

Telephone/Fax: +48 22 828 1008

E-mail: hfhr@hfhrpol.waw.pl

Romanian Helsinki Committee

Str. Nicolae Tonitza 8, 704012 Bucharest, Romania

Telephone/Fax: +40 1 312 45 28

E-mail: apador@dnt.ro

The Moscow Centre for Prison Reform

Luchnikov per 4, no.7, 101000 Moscow, Russian Federation

Telephone: + 7 095 206 85 68 Fax: + 7 095 206 86 58

E-mail: mcprinf@glasnet.ru

The Centre for the Protection of Human Rights

Bukhara, Uzbekistan

Telephone/Fax: +998 65 22 43 027

E-mail: rights@bu.uzpak.uk

ANNEX 4: Basic Principles of Monitoring¹

1. DO NOT HARM

Human rights Officers (HROs) will not be in a position to guarantee the human rights and safety of all persons. It is critical to remember, that the foremost duty of the officer is to the victims and potential victims. The HRO should keep in mind the safety of the people who provide information.

2. RESPECT THE MANDATE

Every HRO should make an effort to understand the mandate, bear it in mind at all times, and learn how to apply and interpret it in the particular situations s/he will encounter.

3. KNOW THE STANDARDS

HROs should be fully familiar with the international human rights standards, which are relevant to their mandate and applicable to the country of operation.

4. EXERCISE GOOD JUDGEMENT

Whatever their number, their relevance and their precision, rules cannot substitute for the good personal judgment and common sense of the human rights officer. HROs should exercise their good judgment at all times and in all circumstances.

5. SEEK CONSULTATION

When a HRO is dealing with a difficult case, it is always wise to consult other officers. HROs should consult or make sure that there has been appropriate consultation with other organization to avoid duplication or potentially contradictory activity.

6. RESPECT THE AUTHORITIES

HROs should keep in mind that one of their objective and the principal role is to encourage the authorities to improve their behaviour.

¹ Based on Chapter V (pp. 87-93) of the Training Manual on Human Rights Monitoring, Professional Training Series n°7, Office of the High Commissioner for Human Rights, United Nations, New York and Geneva, 2001.

7. CREDIBILITY

The HROs credibility is crucial to successful monitoring. HROs should be sure not to make any promises they are unlikely or unable to keep and to follow through. When interviewing victims the HRO should introduce him/herself, briefly explain the mandate, describe what can and cannot be done by the HRO, emphasize the confidentiality.

8. CONFIDENTIALITY

Respect for the confidentiality of information is essential because any breach of this principle could have very serious consequences.

The HRO should ask persons they interview whether they would consent to the use of information they provide for human rights reporting or other purposes.

9. SECURITY

HROs should always bear in mind the security of the people who provide information. They should obtain the consent of witnesses to interview and assure them about confidentiality.

10. UNDERSTAND THE COUNTRY

HROs should endeavour to understand the country, including its people, history, governmental structure, culture, customs, language.

11. NEED FOR CONSISTENCY, PERSISTENCE AND PATIENCE

The collection of sound and precise information to document human rights situation can be a long and difficult process. The information received will have to be examined carefully, compared and verified.

12. ACCURACY AND PRECISION

The provision of sound and precise information requires thorough and well-documented reports. Written communication is always essential to avoid lack of precision, rumors and misunderstanding. Reports should avoid vague allusions and general description.

13. IMPARTIALITY

Each task or interview should be approached with an attitude of impartiality with regard to the application of the mandate and the underlying international standards.

14. OBJECTIVITY

The HRO should maintain an objective attitude at all times including when collecting and weighing information.

15. SENSITIVITY

When interviewing victims, the HRO should be sensitive to the suffering which an individual may have experienced.

16. INTEGRITY

The HRO should treat all informants, interviewees and co-workers with decency and respect. In addition, the officer should carry out the tasks assigned to him/her in an honest and honourable manner.

17. PROFESSIONALISM

The HRO should be knowledgeable, diligent, competent and fastidious about details.

18. VISIBILITY

HRO should be sure that both the authorities and the local populations are aware of the work. Effective monitoring means both seeing and being seen.

Monitoring places of detention: a practical guide for NGOs

It is increasingly recognised by international experts that monitoring places of detention through regular and unannounced visits constitutes one of the most effective way to prevent torture and ill-treatment of persons deprived of their liberty. Visits can be carried out by international mechanisms, such as the European Committee for the Prevention of Torture, but they should be complemented by visits at the national level. Among possible national visiting mechanisms, national non-governmental organisations (NGOs) possess some interesting advantages, the most important one being their independence from the authorities. NGOs monitoring places of detention can be both a civil society watchdog and contribute to the respect of human dignity of persons deprived of their liberty.

Accordingly, the Association for the Prevention of Torture (APT) and the OSCE Office for Democratic Institutions and Human Rights (ODIHR) decided to promote monitoring programmes by national NGOs and to publish this guide.

Through reference points and questions, this guide is aimed at helping NGOs to set up and implement a monitoring programme of places of detention. It deals with issues such as obtaining the authorisation of access, establishing the programme of visits, as well as the methodology of visits and the follow-up to the visit. The guide also presents and comments on international standards to be looked at during a visit, such as the standards on treatment, protection measures or material conditions.

This guide has been written by Annette Corbaz, a consultant to the APT, who enjoys more than ten years experience in visiting places of detention with the International Committee of the Red Cross.

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