

# Changing Cultures in Closed Environments: What Works?

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*This article looks at what works to positively change cultures in closed environments to ones based on respect for human rights and dignity. The article starts by asking what we mean by 'cultures' in closed environments. It takes organisational culture theory as a model that can be drawn on to understand what makes up cultures in these places and what factors influence them. It argues that there is no magic solution that can be used to positively change cultures in closed environments. However, drawing on the experience of the Association for the Prevention of Torture (APT) and experts interviewed, as well as existing bodies of research in this field, the article proposes some key processes, policies and practices – both internal and external to the closed environment in question – that can contribute to positive culture change, and, ultimately, to better treatment and conditions in closed environments.*

## I INTRODUCTION

Persons deprived of their liberty depend on the authorities for their basic needs and to ensure their rights are respected. They are therefore particularly vulnerable to human rights violations and abuse. There has been increasing interest in implementing human rights standards in closed environments over recent years. Positive culture change has the potential to make an important contribution to this, but it is an area that appears to have received comparatively little attention from human rights actors seeking to improve the conditions and treatment of persons in closed environments to date. The added value of this approach is that it goes beyond seeking specific measures or the implementation of particular recommendations, to look at what influences behaviour within closed environments. Ultimately, it is by changing this behaviour that one can improve the everyday experiences of persons deprived of their liberty. For the Association for the Prevention of Torture (APT),<sup>1</sup> fostering a positive human rights culture in closed environments is therefore a key part of work to prevent future abuses, including torture and other ill-treatment.

This article asks what works to positively change cultures in closed environments to ones based on respect for human rights and dignity. Part II outlines the methodology used for the article. Part III focuses on

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1 The Association for the Prevention of Torture (APT) is an international non-governmental organisation (NGO) based in Geneva, Switzerland, which has been working for over 30 years for the prevention of torture and other ill-treatment around the world (see Association for the Prevention of Torture <[www.apr.ch](http://www.apr.ch)>).

understanding organisational culture in closed environments. It draws on organisational culture theory to look at how these cultures develop and are maintained. Part IV then asks what is meant by human rights culture in closed environments and identifies some common sets of attitudes in closed environments that can impact negatively on the respect for human rights within them. Part V goes on to consider how positive culture change can be brought about in closed environments, to build a shared understanding that respecting the dignity, rights and worth of the individual is an intrinsic part of the way things are done within them. Although there is no one solution for achieving positive culture change, the Part draws on existing research and experiences in relation to different closed environments to identify some key policies and practices that can foster a human rights culture in closed environments: both those internal to the organisation and outside drivers for change.

## II METHODOLOGY

Research for this article was initially conducted for a presentation by the author at a conference on ‘Implementing Human Rights in Closed Environments’ held by Monash University on 20-21 February 2012 in Melbourne, Australia. Academic literature and publications by international bodies, official inquiries and non-governmental organisations relating to organisational culture change and human rights in closed environments were consulted. Interviews with five experts with extensive experience in prison administration, policing and migration detention were conducted.<sup>2</sup> The research also draws on the experience of the APT, a Geneva-based non-governmental organisation (NGO) that has been working for the prevention of torture and other ill-treatment for the last 35 years.<sup>3</sup>

Following the conference, follow-up research was conducted by consulting further academic and institutional sources and the article was updated to April 2013.<sup>4</sup>

This article focuses on examples of culture change from mental health care, policing, prisons and immigration detention (the focus areas of the above-mentioned conference). A further limitation of the research is that much of the literature on organisational culture change it refers to, as well as the experience of experts consulted, relates to Western Anglophone countries, although the article includes some examples from other parts

2 All quotes from these interviewees are included with their express consent.

3 The APT works with partners around the world to provide training and advice on legal reform, promote independent monitoring of places of detention and advocate for the ratification and implementation of international treaties relating to torture prevention.

4 The author also drafted an adaptation of this article aimed at bodies that monitor places of detention, which was published as part of a Penal Reform International and APT project. See Penal Reform International and Association for the Prevention of Torture, *Institutional Culture in Detention: A Framework for Preventive Monitoring* (2013).

of the world. It therefore does not provide full consideration of all types of contexts or closed environments. The examples are also illustrative, and further research would be needed to analyse specific contextual factors that have been behind reforms (for example, in Anglophone countries).

### III UNDERSTANDING CLOSED ENVIRONMENTS AND THEIR CULTURES

#### *A What are Closed Environments?*

Closed environments can be understood as places where persons are deprived of their liberty, which include places of detention such as prisons, police custodies and immigration detention centres, as well as other places which individuals cannot leave of their own will, such as mental health institutions, psychiatric hospitals and social care homes.

From the outset it should be noted that there are many different kinds of closed environments and it is difficult to generalise across them. The deprivation of liberty comprises situations as diverse as the largest prisons in the world, which hold up to 10,000 prisoners,<sup>5</sup> to a suspected illegal immigrant being tied to a tree.<sup>6</sup> Some closed environments, such as mental health hospitals, prisons and some immigration detention centres, can be described as ‘total institutions’. These are places ‘of residence and work where a large number of like-situated individuals, cut off from wider society for an appreciable period of time, together lead an enclosed, formally administered round of life’.<sup>7</sup> In others, such as police detention, deprivation of liberty may happen for generally shorter periods of time, within the context of wider organisational aims (that is, law enforcement). People may also be deprived of their liberty in institutions which accommodate voluntary as well as involuntary patients (for example, in mental hospitals or drug rehabilitation centres).

#### *B Some Features of Closed Environments Relevant to Culture Change*

Despite their varied nature and differences, there are some common features of closed environments that are relevant for understanding culture change. First, unlike many other organisations, they are primarily concerned with the management of people (staff and persons deprived of their liberty) and the relationship between them. As Coyle has noted in relation to prisons, they are ‘places where the relationships between

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5 Andrew Coyle, *Managing Prisons in a Time of Change* (International Centre for Prisons Studies, 2002) 18.

6 In a Caribbean country, according to an NGO director and expert in immigration detention interviewed by the author.

7 Erving Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates* (Anchor Books, 1961) xiii.

human beings have a central role to play in determining the organisational culture and direction'.<sup>8</sup>

Second, the relationship between these two groups is unequal, with staff being in a position of power. Persons deprived of their liberty in closed places depend on the authorities in charge for their basic everyday needs as well as ensuring their rights are respected, protected and fulfilled. They are therefore particularly vulnerable and at risk of human rights abuses,<sup>9</sup> including torture and other ill-treatment.

Third, because closed environments are often shut off from outside scrutiny, cultural norms can develop within them – positively or negatively – with limited external check or balance. As staff in closed environments are socialised into the particular culture of that organisation, it can be difficult for them to step back and assess it objectively or to break out of it.

Finally, closed environments can be managed by a variety of different types of organisations; by public bodies (for example, government departments,<sup>10</sup> law enforcement agencies,<sup>11</sup> hospital boards<sup>12</sup>) and private companies.<sup>13</sup> However, in general these tend to be hierarchical and/or bureaucratic institutions, which have a clear organisational structure and chain of command.<sup>14</sup>

These factors, as we will see, have implications for the way that cultures develop and change within closed environments.

### C *What is Organisational Culture?*

Although 'culture' is difficult to define, there is a useful body of research on what constitutes 'organisational culture',<sup>15</sup> which can be drawn upon for an insight into culture in closed environments. A common thread in the literature is *shared assumptions and values that guide behaviour within an organisation*. So, Schein describes it as 'a pattern of shared basic assumptions that was learned by a group as it solved its problems of external adaptation and internal integration, that has worked well

8 Andrew Coyle, 'Change Management in Prisons' in Jamie Bennett et al (eds), *Understanding Prison Staff* (Willan Publishing, 2008) 241.

9 Abuses can occur for a variety of reasons and may not be deliberate. Association for the Prevention of Torture and Instituto Interamericano de Derechos Humanos, *The OPCAT: Implementation Manual* (2010) 15.

10 For example Her Majesty's Prison Service manages most of the prisons in England and Wales. See HM Prison Service <[www.justice.gov.uk/about/hmps](http://www.justice.gov.uk/about/hmps)>.

11 For example police services such as the Metropolitan Police Service in London, are responsible for the detention of criminal suspects.

12 For example the State Hospitals Board in Scotland manages the State Hospital, where mental health patients are compulsorily detained (see NHS Scotland, *The State Hospital* <[www.tsh.scot.nhs.uk](http://www.tsh.scot.nhs.uk)>).

13 For example the private company Serco runs two immigration removal centres in the United Kingdom and seven in Australia (see Serco <[www.serco.com/markets/homeaffairs/immigration/index.asp](http://www.serco.com/markets/homeaffairs/immigration/index.asp)>), as well as a number of prisons worldwide.

14 In the experience of the APT.

15 Initially focusing on the business field, but also applied to public bodies and detaining authorities.

enough to be considered valid and, therefore, to be taught to new members as the correct way you perceive, think, and feel in relation to those problems'.<sup>16</sup> Boisnier and Chatman define it as 'shared values that inform organisational members about how to behave appropriately'.<sup>17</sup> What is particularly interesting is that organisational culture is seen as one of the main factors influencing how people within them behave. As Shafritz and Ott put it, 'a strong organizational culture literally controls organizational behaviour'.<sup>18</sup>

There are different levels of cultural attributes within organisations; some of which are tangible and visible to the outsider and others that are on first sight less evident.<sup>19</sup> According to Schein, the former include the organisation's 'artifacts'<sup>20</sup> (for example the physical environment, the way people dress and what they say to each other) as well as its espoused beliefs and values,<sup>21</sup> which could be represented in articulated philosophies and strategies. At the deeper level, there are the organisation's basic underlying assumptions.<sup>22</sup> These make up the unspoken rules of the group; they may not be articulated on a conscious level and can therefore be difficult to discern. Thus there can be incongruence between the outwardly professed values of an organisation and the way its culture develops in reality.<sup>23</sup>

#### D *What do Cultures in Closed Environments Look Like?*

Anyone who has worked in an organisation will recognise that each one has its own distinctive culture. An illuminating insight into the nature of organisational culture in one detaining authority, the London Metropolitan Police Service in the United Kingdom, was provided by a public inquiry in 1999.<sup>24</sup> The inquiry found that the Metropolitan Police Service was institutionally racist<sup>25</sup> and had an 'occupational culture' that was 'all-powerful

16 Edgar Schein, *Organizational Culture and Leadership* (3rd ed, Jossey-Bass, 2004) 17.

17 Alicia Boisnier and Jennifer Chatman, 'The Role of Subcultures in Agile Organisations' in Randall Peterson and Elizabeth Mannix, *Leading and Managing People in the Dynamic Organization* (Psychology Press, 2003) 3.

18 Jay Shafritz and Steven Ott, cited by Joan Bedore, 'Prisons as Organizational Cultures: A Literature Review of a Vastly Unexplored Organizational Communication Setting' (Paper presented at the Sooner Communication Conference, Norman, April 1994) 2.

19 Schein, above n 16, 25-37.

20 Ibid, 25.

21 Ibid, 28.

22 Ibid, 30.

23 Ibid.

24 The inquiry focused on the investigation by the Metropolitan Police Service of the killing of a young black student, Stephen Lawrence in 1993. Sir William Macpherson, *Stephen Lawrence Inquiry, Report of an Inquiry by Sir William Macpherson of Cluny* (HMSO, 1999).

25 Institutional racism was defined as '[t]he collective failure of an organization to provide an appropriate and professional service to people because of their

in shaping Police Officers' views of a particular community'.<sup>26</sup> This culture was that of a tight knit community in which stereotypes thrive and are transmitted into a group consciousness. Racism became 'rooted in widely shared attitudes, values and beliefs' which transformed into the 'norms of the occupational culture'.<sup>27</sup> Members of the Metropolitan Police Service conformed to these norms, perpetuating stereotypes and reinforcing and reproducing their effects. Furthermore, the closed and uncritical nature of the culture meant that there could be a collective failure to recognise and correct this form of racism.<sup>28</sup>

As well as a dominant culture, organisations may develop sub-cultures, which can either support or compete with the main cultural norms.<sup>29</sup> It has been argued that total institutions, such as prisons or mental health hospitals, are more likely to have strong cultures that 'embrace pivotal values that are so widely adopted and enforced, that they preclude the emergence of peripheral values and, by implication, subcultures'.<sup>30</sup> On the other hand, it can also be argued that in large complex organisations, such as police services, multiple sub-cultures or groupings of values may be more likely to form. An interviewee for this article explained that:

The culture can be very different between the CID [Criminal Investigation Department], the traffic unit and the local police station. It can also depend on the people: I was involved in an investigation into a death in custody in a police station, where the culture in that station was totally different from other police stations in the division. There was a real culture that you were tough – violence was part of the management structure – that was shocking and I'd never seen it before.<sup>31</sup>

Values and assumptions may also differ between levels of staff in an organisation. The first surveys of prison staff attitudes in England and Wales (1982) and Scotland (1988) found that the staff with more negative attitudes were those who had been in service for only a few years.<sup>32</sup> Research has also suggested that 'police culture has its primary allegiance not to the organisation but to the job and the peer groups'.<sup>33</sup> So while top managers may formulate policy, lower level members may hold very different assumptions about 'why things are done the way they are'.<sup>34</sup>

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colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people'. Macpherson, above n 24, 6.34. Some commentators, including a former United Kingdom police officer interviewed for this article, have disagreed with the finding that the whole police service was institutionally racist.

26 Macpherson, above n 24, 6.28.

27 Ibid, 6.28 and 6.33.

28 Ibid, 6.17.

29 See, for example, Boisnier and Chatman, above n 17, 9.

30 Ibid.

31 Former United Kingdom police officer interviewed by the author.

32 Coyle, above n 5, 79.

33 Janet Chan, 'Changing Police Culture' (1996) 36(1) *British Journal of Criminology* 109.

34 Ibid, 113.

### *E Where Does Organisational Culture in Closed Environments Come From and How is it Maintained?*

It is safe to say that organisational culture normally develops gradually over time through a complex mix of elements, both internal and external to the organisation.<sup>35</sup> In the context of closed environments, it can be proposed that there are three main influencing factors for culture: the paradigm as set by management; the values and attitudes of staff and persons deprived of their liberty; and the influence of broader society.

#### 1 Trickle Down: The Paradigm as Set by Management

It is perhaps not surprising that this paradigm – the idea of what the organisation does and why – has a major influence on the culture of closed environments. The leadership of closed environments will play a central role in setting and maintaining this organisational agenda, as well as operationalising it. This is particularly because, as we have seen, closed environments tend to be (part of) hierarchical organisations, where the staff will look to the leadership for guidance and instruction. One example of this is a move towards managerialism in detaining organisations in the West, which has been criticised for focusing on efficiency, targets and risk assessments to the detriment of the human rights and needs of persons deprived of their liberty.<sup>36</sup>

It is important to note that the organisational paradigm is generated both explicitly, through articulated policies and statements of intent, and implicitly, by managers creating de facto rules and motivating behaviour consistent with it.<sup>37</sup> In the corporate context, it has been noted that this is done ‘through promotions and subtle social approval, ranging from invites to lunch or for drinks, to the “nudge-nudge, wink-wink” forms of body language’.<sup>38</sup>

There are a number of examples within closed environments showing that explicit policies themselves are not enough for creating a culture; how they are enforced is equally as important. For instance, in 2000, a critical report by an independent watchdog into the treatment of a patient at the State Hospital Scotland<sup>39</sup> highlighted that ‘a number of systemic problems

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35 A number of researchers have looked at the factors that influence cultures within organisations. One influential commentator, Gerry Johnson, developed the concept of a cultural web to describe organisational cultures and what influences them. This was made up of: The Paradigm, Control Systems, Organisational Structures, Power Structures, Symbols, Rituals and Myths, and Routines. See Gerry Johnson, ‘Rethinking Incrementalism’ (1998) 9 *Strategic Management Journal* 75, 85. The concept has been further developed in subsequent publications.

36 Elizabeth Stanley, *Human Rights and Prisons. A Review to the Human Rights Commission* (Human Rights Commission, 2011).

37 Christopher Meyers, *Institutional Culture and Individual Behavior: Creating an Ethical Environment* (2004) 6.

38 *Ibid*, 5.

39 The State Hospital is a high security forensic mental health hospital in Scotland that provides psychiatric care to persons with mental illness who are compulsorily

existed within the working culture at TSH [the State Hospital] at that time' and called for the human rights of individuals to be recognised.<sup>40</sup> According to the Scottish Human Rights Commission, a subsequent human rights audit of the State Hospital found that most importantly in terms of cultural change, whilst there were policies in place, there was a lack of awareness of policies among staff and an 'existing gap between policy and practice and the need to address this'.<sup>41</sup> As one member of senior management reportedly conceded to the audit: 'There is no point in having shiny nice compliant policies on the shelf if the practice on the shop-floor doesn't reflect the policy'.<sup>42</sup>

## 2 Trickle-in: Values and Attitudes of Staff and Persons Deprived of Their Liberty

The culture of a closed environment can also develop through a mixture of the values that the staff and persons deprived of their liberty bring with them, as well as attitudes they form through their experiences in the institution – that is, it can 'trickle in' as well as 'trickle down'. Also important is how these two groups – staff and detainees – interact with each other.

In the case of the Metropolitan Police Service (mentioned above), a key factor contributing to racism was found to be that the majority of police officers were white. The occupational culture therefore tended to be one of 'the white experience, the white beliefs, the white values'.<sup>43</sup> Black people were constructed as a cultural group differing from that of the occupational culture. Stereotypes were then formed about this community through a mixture of experiences – including the fact that white officers only tended to meet black people in confrontational situations.<sup>44</sup> These racially prejudiced assumptions were reproduced as officers interacted with each other on the job.<sup>45</sup>

An interviewee for this article noted the influence of staff demographics on culture in immigration detention centres, as follows:

Culture also comes the other way: in some immigration centres run by privatised companies, most of the guards have worked previously in prisons. Some actually do three days in a prison and then come to the immigration centre for the rest of the week. Their background and approach means that people are put in a penal environment by default.<sup>46</sup>

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detained under mental health or criminal law (see NHS Scotland, *The State Hospital* <[www.tsh.scot.nhs.uk](http://www.tsh.scot.nhs.uk)>).

40 Scottish Human Rights Commission, *Human Rights in a Health Care Setting: Making it Work. An Evaluation of a Human Rights-Based Approach at the State Hospital* (2009).

41 Ibid, 25.

42 Ibid.

43 Macpherson, above n 24, 6.28.

44 Ibid, 6.28.

45 Ibid, 6.17.

46 NGO director and expert in immigration detention interviewed by the author.



In places where people are detained for an appreciable period of time, the attitudes and values detainees bring with them are more likely to influence the culture of the closed environment. It is common that in prisons, for example, detainees are organised into informal hierarchies, which resemble criminal structures and can control every aspect of detainees' lives. They may be linked to gangs that exist in the outside world and normally have a clear structure and rules enforced through threats, intimidation and violence. Research suggests that inmate subcultures are formed both through the values that prisoners import from their experiences before detention, as well as socialisation within the prison environment.<sup>47</sup> Staff may rely on or collude with informal prisoner hierarchies to maintain order (for example where there is a lack of resources or experience), to suppress political opposition or complaints, or for corruption and extortion, thus entrenching a culture of violence.<sup>48</sup>

Detainees may feel it necessary to suppress their individuality and adopt new subdued identities to deal with the institutional culture they are faced with. A study into staff-prisoner relationships in a United Kingdom prison found that this was a response to the 'false environment' of constant monitoring creating an atmosphere of suspicion, as well as an attitude imported by some prisoners to distrust and not disclose personal information (including because they had learnt through their dealings with criminal justice agents that 'anything you can say can be used against you').<sup>49</sup>

### 3 The Influence of Broader Societal Values and Attitudes

Closed environments may convey the impression of being completely cut off from outside influence, but in reality they do not exist in a vacuum. Cultures within them are influenced by the broader attitudes of the societies in which they exist. The way in which closed environments are managed is likely to reflect prevailing management styles in a given society. Staff attitudes may be influenced by societal discourses and, although more limited, detainees also continue to have links to the outside world, including through contact with family and friends and the media. In addition, detention takes place in a wider institutional framework (involving criminal justice actors, immigration officials, health care professionals, and oversight bodies among others) which can reproduce societal values in their interaction with detention systems.

Public opinion regarding public safety and security, and minority groups and immigrants can have a particular influence on the general

47 Robert Hanser, *Introduction to Corrections* (Sage Publications, 2013) 237-238.

48 See, for example, *Rapport au Gouvernement de la Moldova relatif à la visite effectuée par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) en Moldova du 21 au 27 juillet 2010*.

49 Alison Liebling, Helen Arnold and Christina Straub, *An Exploration of Staff Prisoner Relationships at HMP Whitemoor: 12 years on, Revised Final Report* (Ministry of Justice, 2011) 29-30.

atmosphere found in prisons, police custodies and immigration detention.<sup>50</sup> The media plays a significant role in reflecting, but also generating, public opinion, as do politicians, for example through ‘tough on crime’ or ‘tough on immigration’ policies which are often employed at opportune moments such as in the run up to elections.

The above-mentioned study of staff-prisoner relationships demonstrates the influence of public opinion on staff attitudes in a United Kingdom prison:

The harshening public climate – a growing lack of tolerance towards offenders, fear and insecurity about threats to safety, increasing punitiveness being expressed in the media, and lengthening sentences – set the tone for a less ‘liberal’ attitude among newly recruited prison officers towards long-term prisoners.<sup>51</sup>

More deeply imbedded political, social and economic factors can equally have an impact, as Janet Chan’s research into police culture has shown. She argues that as well as cultural knowledge, structural conditions have an important role to play in shaping police practices in relation to minority groups:

Thus, stereotyping, harassment, abuse of power, and violence occur in a policing field characterised by public apathy, disadvantaged minority groups, unfettered police powers, and inadequate mechanisms for accountability.<sup>52</sup>

Finally, detention populations may reflect changing social demographics. For example, in some countries the increasingly ageing prison populations provide the authorities with similar challenges in meeting their needs as those faced by policy makers in wider society, in particular in the provision of adequate and appropriate health care.<sup>53</sup>

#### 4 How Do Cultures in Closed Environments Survive and Endure?

We have seen that the cultures of closed environments are strongly influenced by the people who are associated with them. But organisational cultures survive beyond individuals who come and go, so how do they endure?

As Johnson and others have argued, cultures can be perpetuated through symbols, rituals and stories, which link the organisation with its history and convey a message about what is important in the organisation.<sup>54</sup>

50 In the experience of the APT.

51 Liebling et al, above n 49, 18.

52 Janet Chan, *Changing Police Culture, Policing in a Multicultural Society* (Cambridge University Press, 1977) 91.

53 Human Rights Watch, *Old Behind Bars: The Aging Prison Population in the United States* (2012).

54 Symbols are ‘objects, events, acts or people that convey, maintain or create meaning over and above their functional purpose’. Rituals are activities or events that emphasise, highlight or reinforce what is especially important in the culture. Gerry Johnson, Kevin Scholes and Richard Whittington, *Exploring Corporate Strategy* (8th ed, Pearson Education, 2008) 198-199.

An interesting example of this is found in policing in Northern Ireland, following the cessation of the Troubles.<sup>55</sup> The Royal Ulster Constabulary had allegedly been involved in human rights violations including ill-treatment of detainees, extra-judicial killings and discrimination and was said to be in need of wholesale culture change.<sup>56</sup> Lamb has claimed that the symbolic environment of the Royal Ulster Constabulary was linked to “‘folk memories’ of the wider Protestant/Loyalist, Unionist community’ and the Royal Ulster Constabulary identity of protecting this ‘innocent and misrepresented community’ against terrorism.”<sup>57</sup> The fact that Royal Ulster Constabulary officers were fiercely attached to these symbols, rituals and ceremonies, provided further evidence of the enduring organisational culture.

The language used in closed environments is another important factor in how culture is maintained. In the Metropolitan Police Service, for example, underlying values were said to be transmitted through the ‘canteen culture’, that is, the small talk between police at the operational level.<sup>58</sup> To give an example of this, one police officer described how: ‘as a Sergeant I was in the back of a car and a female white officer on seeing a black person driving a very nice car just said “I wonder who he robbed to get that?”’.<sup>59</sup>

#### IV HUMAN RIGHTS CULTURE IN CLOSED ENVIRONMENTS

Human rights recognise the dignity and worth of each individual and are inherent to all human beings. They are found in a body of standards agreed on by the international community, as well as in regional instruments and national legislation. An important principle of international law is that detainees retain all their human rights (civil, political, economic, social and cultural) except those necessarily curtailed by the detention itself (that is, the right to liberty).

Rights that are particularly relevant to the deprivation of liberty include the right for persons deprived of their liberty to be treated humanely and with respect for their inherent dignity, and the right to be free from torture, inhuman or degrading treatment. Other very relevant rights include the rights to life, health, food, water and education, due

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55 A period of conflict in Northern Ireland between elements of the nationalist (mainly Catholic) community and the unionist (mainly Protestant) community, commonly considered to have taken place between the late 1960s and the Belfast Agreement of 1998. See, for example, Douglas Woodwell, ‘The Troubles of Northern Ireland: Civil Conflict in an Economically Well-Developed State’ in Paul Collier and Nicholas Sambanis (eds), *Understanding Civil War* (World Bank Publications, 2005) Volume 2; Mari Fitzduff and Liam O’Hagan, ‘The Northern Ireland Troubles: INCORE background paper’ (University of Ulster, 2009).

56 Michelle Lamb, ‘A Culture of Human Rights: Transforming Policing in Northern Ireland’ (2008) *Policing: A Journal of Policy and Practice* 389.

57 Ibid.

58 Macpherson, above n 24, 6 28.

59 Ibid, 6.12.

process rights, the right to contact with family, the rights of the child, and the right to non-discrimination. More detailed instruments provide specific standards relating to aspects of treatment, protection measures, material conditions, regime and activities, medical services and personnel within closed environments.<sup>60</sup>

In addition to specific standards, there are a number of important cross-cutting principles, derived from international human rights treaties, which can inform and guide a human rights-based approach to policies and action in closed environments. These include: accountability, empowerment, participation and inclusion, non-discrimination and equality, and the rule of law. In addition, actions that may interfere with rights (for example, the use of seclusion or restraints) should be taken on an individual basis, depending on the situation, needs and risks involved, and according to an assessment of their necessity, legality and proportionality.

A human rights culture within closed environments can be understood as a shared belief among staff and detainees that respect for human rights and the dignity and worth of individuals is valuable and an intrinsic part of how things are done within the organisation. Within such a culture, human beings will be at the centre of policies and action and safeguards will be in place against abuse. A constructive environment will be fostered through mutual respect between staff and persons deprived of their liberty. The rights of both these groups will be respected, with staff and detainees being informed of and involved in decisions that affect them.

A human rights culture requires more than the detaining organisation or its members stating that human rights are important or that they are incorporated into routines and practices. It means that on a deeper cognitive level, perhaps even unconsciously, underlying human rights principles form part of the shared basic assumptions about what it is important in every day work and behaviour within the closed environment. Members will be socialised into this culture through (often subtle) social approval and feedback from their superiors and peers.

As Liebling has argued, in practice, concepts such as ‘dignity’ and ‘humane treatment’ can be difficult to operationalise. Liebling argues that ‘[p]risoners are articulate about them, however, and know the difference between “feeling humiliated” and “retaining an identity”’.<sup>61</sup> She proposes a set of values that encompass ‘what matters’ to prisoners: respect; humanity; fairness; order; safety and staff-prisoner relationships.<sup>62</sup> Such measurements of moral performance may help to shed light on standards of treatment, particularly when the focus is on the culture of closed environments.<sup>63</sup>

60 See APT, *Monitoring Places of Detention: A Practical Guide* (2004) Ch 4.

61 Alison Liebling, ‘Moral Performance, Inhuman and Degrading Treatment and Prison Pain’ (2011) 13 *Punishment and Society* 530, 533.

62 Ibid, 534.

63 Liebling highlights that how morality works in a prison gives rise to an ‘identifiable social and moral climate: *ibid*, 534 and 546.

*A Values and Attitudes That Can Impact Negatively  
on Human Rights in Closed Environments*

Cultures in closed environments need not be negative. But there are certain assumptions and values that can develop in closed environments, which can impact negatively on the respect for dignity and human rights within them. The following outlines some common sets of negative attitudes (which are interrelated).

1 'Us and Them'

It is common that across different kinds of closed environments, there is a hostile 'us and them' attitude between staff and persons deprived of their liberty. This may involve competition for resources and attention from management.<sup>64</sup> Where staff are given predominantly supervision roles over detainees, this can develop into suspicion of the intentions and behaviour of those who are detained.<sup>65</sup> In policing, suspicion may arise from the very nature of criminal investigation work. In addition, staff may hold negative attitudes towards management<sup>66</sup> and the outside world.<sup>67</sup> Research into police culture has found links between 'us and them' type attitudes held by police personnel and coercive behaviour.<sup>68</sup> In the prison context, Liebling has shown that similar attitudes negatively impacted on prisoner quality of life<sup>69</sup> (although this relationship is a complex one and other factors such as staff experience and competence play a significant role<sup>70</sup>).

2 Loss of the Individual

The way people are managed in closed environments commonly has a depersonalising effect, starting for example with the provision of uniforms and identification numbers when detainees enter an establishment. There is a further risk that when work in closed environments becomes routine, persons deprived of their liberty lose their status as individual people in

64 Andrew Coyle, *Managing Prisons in a Time of Change* (International Centre for Prisons Studies, 2002) 77.

65 Erving Goffman, 'On the Characteristics of Total Institutions: the Inmate World' in Donald Cressey (ed), *The Prison, Studies in Institutional and Organisational Change* (International Thomson Publishing, 1961) 18.

66 See Coyle, above n 64, 81; and William Terrill, Eugene Paoline III and Peter Manning, 'Police Culture and Coercion' (2003) 41(4) *Criminology* 1003, 1006.

67 According to an expert in penal reform interviewed by the author, staff in closed environments can have a feeling that 'no-one understands' (in particular in policing and the military in terms of the risks they take for the safety and security for society).

68 Terrill et al, above n 66.

69 In particular, they were associated with higher levels of prisoner distress. See Alison Liebling, 'Why Prison Staff Culture Matters' in JM Byrne, FS Taxman and D Hummer (eds) *The Culture of Prison Violence* (Allyn and Bacon, 2007) 105.

70 B Crewe, A Liebling and S Hulley, 'Staff Culture, Use of Authority and Prisoner Quality of Life in Public and Private Sector Prisons' (2011) 44(1) *Australian and New Zealand Journal of Criminology* 94.

the eyes of staff, ‘taking on the characteristic of inanimate objects’.<sup>71</sup> This loss of the individual can be reflected in blanket policies that interfere with human rights but are applied to all detainees, regardless of their individual situation and needs.

### 3 People Deprived of Their Liberty Don’t Deserve Rights

This view can develop and manifest itself in different ways. In general, it sees people deprived of their liberty as somehow lesser beings, either because of who they are or what they have done. Views that can exist among staff are that ‘criminals’ should be treated badly and denied rights as part of their punishment and that foreigners ‘shouldn’t be here’ or deserve lower standards than citizens.<sup>72</sup> In policing, officers may justify the bending of rules (including on the treatment of detainees), inter alia, by dehumanising the victim or on the grounds that they are working for a higher cause.<sup>73</sup>

### 4 Stereotyping and Racism

Discrimination is common and multi-layered in detention settings and can take place on the basis of ethnicity, nationality, religion, sexual orientation and gender identity among other things. People from vulnerable and marginalised groups tend to be over-represented among detainee populations, often in contrast with the demographic of the staff. Stereotyping and attitudes of superiority and disdain towards minorities can exist among staff and detainees. These often reflect attitudes in wider society, and can also develop among staff through their particular experiences at work (for example, if their interactions with members of minority groups tend to be in confrontational situations). Discrimination is contrary to fundamental principles of human rights, and can also lead to further human rights abuses.

### 5 Security is Paramount

Success in closed environments is often measured by the fact that there have been no security-related incidents. Security concerns can therefore take on a paramount role, in particular in total institutions, over and above other considerations including the rights and treatment of persons deprived of their liberty. For example, in France, a practice of systematically removing the glasses and bras of detainees in police custody has been criticised for not balancing security measures with the dignity of detainees and for being disproportionate, given the small number of incidents it may actually prevent.<sup>74</sup>

71 Goffman, above n 65, 68.

72 In the experience of the APT.

73 Brian Fitch, ‘Understanding the Psychology of Police Misconduct’ (2011) 78 *Police Chief* 24.

74 Contrôleur général des lieux de privation de liberté, *Rapport d’activité* (2008) 89-90. The Contrôleur général des lieux de privation de liberté is the French National Preventive Mechanism under OPCAT.

## 6 A Culture of Violence

A culture of violence develops with the attitude that violence is normal in a place of detention. It can exist when coercion is seen as justified or acceptable and is used systematically by staff, for instance for obtaining confessions or maintaining order. It can also ensue when authorities tolerate, encourage or fail to address inter-detainee violence, and is often linked to the existence of informal detainee hierarchies. For example, in 2010,<sup>75</sup> the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) noted that there was a climate of violence and intimidation in a prison it visited in Moldova. Not only was there violence between prisoners, but guards also participated in violence, especially at night. Prisoners were allegedly approached to make payments to the prisoner 'leader' or guards, to ensure their security or to be left alone.

## 7 Using Authority for Personal Gain

Closed environments provide opportunities for corruption because of the power imbalances present (between staff and detainees, and between different detainees). Staff may believe they are justified in using their power for personal gain, for example because they resent pay levels they think are unfair or feel they need the extra income to maintain their lifestyle.<sup>76</sup> When corruption is rife in society and its institutions, they may think 'this is how things are done' and be influenced by the unlikelihood of getting caught or punished. Staff may also collaborate with the informal detainee hierarchies in the running of corruption rackets. The types of attitudes can result in arbitrary arrest and detention, the denial of rights in detention (because access to goods, services and due process rights become privileges which must to be paid for) and in extreme cases the use of torture or the threat of it to extort money from relatives of detainees.<sup>77</sup>

## 8 A Culture of Impunity

A culture of impunity exists when there is a general tolerance of human rights abuses in places of detention and those responsible are not held to account – whether in criminal, civil, administrative or disciplinary

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75 *Rapport au Gouvernement de la Moldova relatif à la visite effectuée par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) en Moldova du 21 au 27 juillet 2010.*

76 The World Bank, *Youth for Good Governance, Module IV: Causes of Corruption* <<http://info.worldbank.org/etools/docs/library/35971/mod04.pdf>>.

77 Open Society Justice Initiative, *Pretrial Detention and Torture: Why Pretrial Detainees Face the Greatest Risk. A Global Campaign for Pretrial Justice Report* (Open Society Foundations, 2011). This paper highlights that corruption among other officials and professionals whose work is related to detention (for example, judges, prosecutors and lawyers) also impacts negatively on the rights of persons in pre-trial detention.

proceedings<sup>78</sup> – or when penalties are too lenient to act as a deterrent. Acts of silence among staff, also known as ‘esprit de corps’ (the practice of not reporting or covering up acts of wrongdoing by colleagues), contribute to such a culture. Impunity is entrenched when rule of law institutions fail to provide accountability, including through impartial investigations and prosecution of perpetrators. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (Special Rapporteur) has highlighted that impunity is a major root cause of the ongoing prevalence of torture and other ill-treatment in many countries.<sup>79</sup>

Now that we have taken a look at what we mean by cultures in closed environments from a human rights perspective, and some sets of attitudes that impact negatively on human rights, we can go on to examine what works to bring about positive culture change in these places.

## V WHAT WORKS TO CHANGE CULTURE IN CLOSED ENVIRONMENTS?

Human rights organisational change has been described as ‘the process of moving an organisation to be more inclusive, and to fully respect and accommodate the dignity, worth and rights of all people’.<sup>80</sup> Importantly, this not only involves changing practices to be more compliant with human rights standards (although this may come first) but also the underlying attitudes and values which influence behaviour.

There are different ways that cultures in organisations can change: gradually, unintentionally over time or through deliberate and intended action. In terms of human rights, culture can change positively or negatively. There is no one magic solution to achieving positive culture change in closed environments. As Schein argues, culture change in organisations can be ‘difficult, time consuming and anxiety provoking’.<sup>81</sup> Culture change is also context specific and effective approaches in one context may not have the same impact in another. But it is possible to draw on existing research<sup>82</sup> and experiences in relation to different closed environments,

78 United Nations *Updated Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity*, UN Doc E/CN4/2005/102/Add1 (8 February 2005).

79 *Interim Report of the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, UN Doc A/65/273 (10 August 2010).

80 Ontario Human Rights Commission, *Human Rights and Policing: Creating and Sustaining Organisational Change* (2011) 8.

81 Schein, above n 16, 36.

82 For example Cummings and Worley propose the following practical guidelines for achieving organisational culture change (some of which are addressed in this section): formulate a clear strategic vision; display top-level management commitment; model culture change at the highest levels; modify the organisation to support organisational change; select and socialise newcomers and terminate deviants; and develop ethical and legal sensitivity. See Thomas Cummings and Christopher Worley, *Organization Development and Change* (9th ed, South-Western College Publishing, 2009) 526-528.



to highlight some of the key factors that can contribute to positive culture change in these places. These include both intended actions internal to the organisation in question (considered here first) and outside drivers for change (covered in the subsequent section).

### *A Internal Action to Change Culture in Closed Environments*

Many commentators suggest that internal culture change efforts are more effective when carried out through a participatory process, involving multiple stakeholders (staff at different levels as well as persons deprived of their liberty and members of the community).<sup>83</sup> This can better inform the process and serve to garner support for reforms among these different stakeholders (if they feel that their input is being properly taken into account).

#### 1 Committed Leadership

It is widely agreed that the leadership must be on board and committed for positive, human rights-based culture change to be achieved in closed environments. The first step is for the leadership to acknowledge that change is needed. In the context of prisons, Coyle has suggested that this requires understanding the history of the organisation, where it is at present and its future direction.<sup>84</sup> Leaders then need to show that they are committed to change. This can mean publicising and showing their support for the change process, as well as demonstrating commitment through leading by example.

For example, between 2007 and 2010, the Toronto Police Service undertook comprehensive efforts to incorporate human rights into its work and eliminate discrimination in employment and services.<sup>85</sup> As part of this project, the Board Chair, the Police Chief and the Chief Commissioner signed onto a Human Rights Project Charter agreement and publicised their commitment to it.<sup>86</sup> According to a report by the Ontario Human Rights Commission, '[t]he commitment of these most senior organisational leaders and the direct involvement of other senior board and service staff in the project were instrumental in showing united purpose and commitment'.<sup>87</sup>

The individual character and leadership style of the manager can also have an impact on change processes. There seems to be no one 'positive' management style, but in general leaders who are visible and respectful,<sup>88</sup> who have recognisable charisma and attract trust and confidence from

83 See, for example, Ontario Human Rights Commission, above n 80, 26; Scottish Human Rights Commission, above n 40.

84 See Coyle, above n 64, Ch 4.

85 Ontario Human Rights Commission, above n 80, 5.

86 Ibid, 20.

87 Ibid, 20.

88 Former Australian prison director interviewed by the author.

staff<sup>89</sup> are more likely to be able to get others on board and achieve culture change within their organisations. In addition, a leadership that is open to input and learning from outside will likely be better informed of possible practices and policies that can bring about this kind of change.

## 2 Shifting the Paradigm: A Clear Vision Based on Human Rights

It has been noted that the organisational paradigm, or the ‘idea of what the organisation does and why’ is a starting point for developing its culture. To drive positive culture change, there may therefore be a need for a new organisational ‘vision statement’<sup>90</sup> or management philosophy, which is based on human rights principles and puts people at the centre. Because closed environments are part of larger bureaucracies and also often regulated by legislation, policy or legislative changes can also feed into paradigm shift. However, to be effective, the new vision needs to be articulated by the leadership of the organisation in question, written down, explained and disseminated among staff so it becomes a point of reference in their work.

Changes in the immigration detention system in Sweden in the late 1990s illustrate the importance of paradigm shift. Prior to 1997, the Swedish Federal Police managed detention centres and hired private security contractors to ensure the daily operation of the centres.<sup>91</sup> Following criticism and allegations of human rights abuses, responsibility for immigration detention was handed to the Migration Board, which was tasked with making it ‘more civil, culturally sensitive and open’.<sup>92</sup> The new policy made it clear that from then on, with the exception of freedom of movement, no other freedoms would be taken<sup>93</sup> and that the treatment of people in immigration detention ‘should reflect that they are not criminals’.<sup>94</sup>

## 3 Modifying the Organisation to Support Organisational Change<sup>95</sup>

The next step is reviewing and adjusting the organisation in line with the new vision. Among other things, this can involve changing policies, procedures, operational structure, symbols and language to reflect the new values the organisation is striving for.

### (a) *Operational Structure*

At the broader level, culture change can involve transferring the responsibility for closed environments within government to departments or

89 Coyle, above n 64, 72.

90 Cummings and Worley, above n 82, 526.

91 Grant Mitchell, *Asylum Seekers in Sweden. An Integrated Approach to Reception, Detention, Determination, Integration and Return* (2001) 8.

92 Ibid.

93 Ibid.

94 Ibid.

95 Cummings and Worley, above n 82, 527.

ministries whose mandate and philosophy are more appropriate for the role. For example, the prison systems in Central and Eastern European and Central Asian countries were historically part of the Ministry of the Interior, traditionally linked with security and policing. The Council of Europe has made the transfer of this responsibility to the civilian control of the Ministry of Justice a requirement for membership.<sup>96</sup>

Within the organisation itself, creating new units or staff roles specifically to look after the needs and wellbeing of individuals deprived of their liberty has been an important part of some culture change efforts. For example, the *Police and Criminal Evidence Act 1984* in the United Kingdom introduced the role of custody officer, who is independent from the investigation of suspects and has the responsibility of ensuring the proper treatment of the person in detention. One interviewee explained that this had an important impact on police culture in the United Kingdom:

When the Act came in, there was a culture shock. A colleague pointed out to my divisional commander at the time that he could no longer just go down to the cells to speak to a detainee whenever he wanted. He tried and the custody officer stopped him.<sup>97</sup>

*(b) Policies and Procedures*

To ensure that the organisational vision is translated into practice, the explicit policies and procedures of the closed environment need to reflect and be in line with the wider statement of purpose and principles of human rights. Some organisations have found it useful to bring in outside experts, who both have human rights expertise and understand the nature of the work in the particular type of closed environment, to help formulate these.

According to the Scottish Human Rights Commission, a key element of human rights-based change process at the State Hospital Scotland (mentioned above) was an audit of the hospital's policies and practices against human rights standards.<sup>98</sup> This was undertaken by a cross-section of staff that had received training from a human rights expert, and used a simple traffic light method:

- Red: policy/practice not human rights compliant;
- Amber: policy/practice has significant risk of non-compliance; and
- Green: policy/practice is human rights compliant.

No policies were found to be 'red' but policies found to be 'amber' were subsequently reviewed and in many cases human rights issues were generally referred to explicitly in the revised policies. This was part of a comprehensive change strategy, which was found to have created a positive rights respecting culture in the hospital.<sup>99</sup>

There is an important body of practical guidance on human rights-based policies and procedures in closed environments which has been developed

<sup>96</sup> Coyle, above n 64, 51-54.

<sup>97</sup> Former United Kingdom police officer interviewed by the author.

<sup>98</sup> Scottish Human Rights Commission, above n 40.

<sup>99</sup> *Ibid*, 24.

by bodies at the international, regional and national levels. These include monitoring bodies, which actually go into places of detention to assess human rights compliance, such as the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT)<sup>100</sup> and National Preventive Mechanisms (NPMs) under the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)* (discussed further below), as well as the CPT<sup>101</sup> in Europe. Although it is not possible to discuss these policies and procedures in detail here, it is worth noting that measures often recommended by these bodies include:

- effective accountability systems;
- effective complaints mechanisms;
- dynamic security, that is, ‘the development by staff of positive relationships with prisoners based on firmness and fairness, in combination with an understanding of their personal situation and any risk posed by individual prisoners’;<sup>102</sup>
- opening up closed environments to the outside world, in particular to independent monitoring (discussed further below).

(c) *Symbols and Language*

Where there is a need for a break with the past, symbols and language that perpetuate culture within closed environments may need to be replaced. In Northern Ireland, the Independent Commission on Policing found that the ‘words and symbols’ of the Royal Ulster Constabulary were associated with one side of the conflict (the British state and unionist community) and had become politicised.<sup>103</sup> It therefore recommended that these be changed to ensure neutrality in relation to the two communities in Northern Ireland. The Royal Ulster Constabulary was thus renamed ‘the Police Service of the Northern Ireland (PSNI)’ and a new oath was introduced that involved pledging to uphold human rights rather than an allegiance to the British crown.<sup>104</sup> Among other measures, its crest was

100 United Nations Subcommittee on Prevention of Torture <[www2.ohchr.org/english/bodies/cat/opcat/index.htm](http://www2.ohchr.org/english/bodies/cat/opcat/index.htm)>.

101 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment <[www.cpt.coe.int/en/default.htm](http://www.cpt.coe.int/en/default.htm)>.

102 Council of Europe, Committee of Ministers, *Recommendation of the Committee of Ministers to Member States on the Management by Prison Administrations of Life Sentence and Other Long-Term Prisoners* (2003) Recommendation 23.

103 The Independent Commission on Policing for Northern Ireland was set up to look into police reform, as part of the Belfast Agreement of 1998. See The Independent Commission on Policing for Northern Ireland, *A New Beginning: Policing in Northern Ireland* (1999) 1. Chapter 17 of the ICP’s report looks at the ‘Culture, Symbols and Ethos’ of the Royal Ulster Constabulary (RUC). The recommendation to change the oath of the RUC was made in Ch 4 on Human Rights. See The Independent Commission on Policing for Northern Ireland, *A New Beginning: Policing in Northern Ireland* (1999) 20, 98-99.

104 Northern Ireland Policing Board, *Human Rights Thematic Review: Policing with and for Gay, Lesbian, Bisexual and Transgender Individuals* (2012) 40 and

also changed to include ‘equally British, Irish and Northern Irish symbols, rather than the highly contested crown and harp of the RUC’.<sup>105</sup> According to a study by Lamb, this symbolic transformation played an important role in driving positive cultural change within that organisation from a human rights perspective.<sup>106</sup> However, it is too early to assess the extent to which this has been embedded in organisational culture.<sup>107</sup>

(d) *Physical Environment*

The physical environment in closed environments can hinder or facilitate the realisation of a constructive environment based on the respect for human rights. Their architecture may reflect a different earlier philosophy surrounding detention. And although not always possible to alter bricks and mortar, this can assist change efforts. For example, after it was closed down in 1974, Bathurst prison in New South Wales, was rebuilt to fit a new management philosophy. This sought to improve relations between staff and prisoners by encouraging interaction between the groups through a ‘unit management system’.<sup>108</sup> Instead of the traditional wing set up, the prison was rebuilt in units, which housed between 16 and 18 prisoners.<sup>109</sup> Research found that with the unit system, the prisoner/prison officer relationships had substantially improved in comparison with previous wing experience.<sup>110</sup> As an interviewee who worked in Bathurst at the time of the change process noted: ‘the physical environment can help: the units were easier to keep clean, people took pride in the space and it was easier to have voices heard’.<sup>111</sup>

#### 4 Recruiting and Placing Staff

We saw in the first part of this article that the nature and demographic of the workforce can have a significant impact on the culture that develops

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Graham Ellison, ‘A Blueprint for Democratic Policing Anywhere in the World? Police Reform, Political Transition, and Conflict Resolution in Northern Ireland’ (2007) 10 *Police Quarterly* 243, 251.

105 Lamb, above n 56, 389.

106 Ibid.

107 Ibid. Ellison argues that ‘although a number of institutional hallmarks of democratic policing are in place, their effectiveness has been limited by difficulties in implementation and, more fundamentally, by a lack of overall political progress’ – Ellison, above n 104, 245.

108 Ron Robson, ‘Managing the Long Term Prisoner: A Report on an Australian Innovation in Unit Management’ (1989) 28(3) *Howard Journal of Criminal Justice* 187, 188.

109 The prison was closed in 1974 following successive riots and a fire that damaged parts of the physical infrastructure beyond repair: *ibid.*, 196.

110 Ibid.

111 Former prison director in Australia interviewed by the author. In 2009, Australia’s first prison built according to human rights principles – the Alexander Maconochie Centre in the Australian Capital Territory – became operational. See, for example, Jon Stanhope, *The Prisoner as Human Being* (2012) <<http://rightnow.org.au/topics/bill-of-rights/the-prisoner-as-a-human-being>>.

within a closed environment. Positive culture change may therefore involve ensuring that the right staff are placed in key positions and that the skills and backgrounds of staff at different levels reflect the values, policies, new operational structures and roles put in place.<sup>112</sup> As the CPT has stated in relation to prisons:

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 work more as a vocation than as a mere job.<sup>113</sup>

At the middle-management level, there need to be individuals who believe in, and are committed to, the values being promoted as well as the change process to lead it, convince others, and make sure that new policies and procedures are enforced. One interviewee who has been involved in change processes within policing explained that it is not enough to have the right person at the top:

So many change processes fizzle out, why? You've got to get your middle management with you ... sometimes you have to change middle management for this – if they seem to be obstacles. Or bring new people in: someone with a strong personality and leadership: the people that others listen to and are convinced by – they are the people you need.<sup>114</sup>

Culture change may require the hiring of new staff with the professional background and expertise to fulfil new roles. For example, the above-mentioned reform of the Swedish immigration detention system involved implementing a system of caseworkers 'who though mindful of security, are not guards'.<sup>115</sup> Private security contractors were removed and replaced with 'social workers, counsellors and people with experience working in closed institutions, bringing sensitivity and experience to their work with the asylum seekers'.<sup>116</sup> The introduction of employees with different backgrounds and professional expertise was part of a change process that commentators have seen as successful in 'building a functioning reception process that allows for a just and humane treatment of asylum seekers' in Sweden.<sup>117</sup>

Bringing about changes in culture may also necessitate changing the demographic of the workforce to ensure that they better represent the communities they serve. In the United Kingdom, increasing the proportion of black and other ethnic minority staff has been a key strategy recommended and employed to combat racism in the police and prison services.<sup>118</sup> Similarly, the reform of the Northern Ireland Police Service

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112 Cummings and Worley, above n 82, 527.

113 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *CPT Standards* (2010) 20.

114 Former United Kingdom police officer interviewed by the author.

115 Mitchell, above n 91, 9.

116 Ibid.

117 Ibid, 1.

118 Macpherson, above n 24; and Kimmitt Edgar and Carol Martin, *Perceptions of Race and Conflict: Perspectives of Minority Ethnic Prisoners and of Prison Officers* (2004) 29.

(mentioned above) included new recruitment procedures to ensure that the police service, which had been predominantly Protestant and male, had at least 50 per cent of officers from the Catholic/Nationalist/republican community within 10 years.<sup>119</sup>

In addition, retention rates for staff from minority groups are often lower than for their counterparts and specific retention policies may be needed to address the reasons for this. For example, research in the United Kingdom has found that black and Asian police officers were more likely to resign than white officers for a variety of reasons including ‘the difficulties of integration into the occupational culture, frustration with the way supervisory and senior officers dealt with everyday racist banter, and the aggressive policing of ethnic minorities’.<sup>120</sup> In this context, an independent watchdog recommended that police retention policies include mentoring, informal networking and welfare support.<sup>121</sup>

Finally, culture change may require the dismissal of staff. The police reform process in Georgia, following the ‘Rose Revolution’, involved abolishing whole branches of the police that were seen as problematic and corrupt, and downsizing others (including by dismissing staff who were thought to have been involved in corruption or other illegal acts).<sup>122</sup> Approximately half the police personnel in the country (nearly 15,000 officers according to one estimate<sup>123</sup>) lost their jobs in the process. The remaining officers were issued with redesigned uniforms and were given wage increases on average nine to ten times more than in the past.<sup>124</sup> While shortcomings in the impact of these reforms have been pointed out,<sup>125</sup> there are also indications of improved police practices including the fact that police treatment of persons deprived of their liberty has ‘considerably improved’.<sup>126</sup>

## 5 Training Staff

Training is part of ensuring that staff understand the new organisational vision, policies and procedures of the organisation, as well as the human rights principles behind them. The commentators agree that the emphasis should not be on the theory of human rights (lists of conventions and

119 Lamb, above n 56, 389.

120 Ben Bowling and Coretta Phillips, *Policing Ethnic Minority Communities*, LSE Research Online <<http://eprints.lse.ac.uk/9576/>> 16 (originally published in Tim Newburn (ed), *Handbook of Policing* (Willan Publishing, 2003)).

121 Ibid.

122 Matthew Devlin, ‘Seizing the Reform Moment: Rebuilding Georgia’s Police, 2004-2006’ (Princeton University, 2010); *Innovations for a Successful Society* <[www.princeton.edu/successfulsocieties](http://www.princeton.edu/successfulsocieties)>.

123 Jozsef Boda and Kornely Kakachia, *The Current Status of Police Reform in Georgia* (Geneva Centre for the Democratic Control of Armed Forces, 2005).

124 Ibid.

125 Ibid.

126 CPT, *Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 15 February 2010* (CPT/Inf (2010) 27).

standards) but on what these mean in practice. For example, through discussion of case studies. One interviewee explained, in the context of prisons that:

[I]ntroductory human rights training might be necessary, to introduce staff to where the principles come from and give them an overview. But in times of change people need to know what they need to do. So training is about teaching staff what we are doing and why (the management strategy) as well as what we have to do in given situations (the procedures). The latter is the most important.<sup>127</sup>

Training courses are more likely to be effective if they are given by credible trainers, who understand the operational aspect of the work including the everyday challenges faced by staff.<sup>128</sup> In terms of culture change, training for a *role* is as important as training for a task.<sup>129</sup> Training courses should also be anchored in statements of intent, and their content implemented through systems of supervision and reinforcement.<sup>130</sup>

One clear lesson learnt in the examples mentioned in this article is that training courses should not be one-off events or limited to the change process, but be continued to include new and existing staff beyond this time.

## 6 Supervision and Reinforcement

As we saw earlier, the informal rules, especially those created by managers through tacit social approval, are more likely to have a bearing on the culture that develops in closed environments than formal policies. The importance of proper supervision and reinforcement of policies and procedures (through incentives and sanctions) therefore cannot be overstated. The individuals in management positions – especially operational managers who deal with the everyday functioning of a place of deprivation of liberty – have a key role to play here. They must both believe in, and be prepared to enforce, the new policies and procedures; not just in a bureaucratic sense, but also by recalling the principles that are behind them.

An interviewee who has been involved in change processes within policing stated:

[The policy] has got to be enforced – it's not enough to just circulate it. You have to have people who will sell it, focus on it and challenge deviations. These will be the managers closer to the ground.<sup>131</sup>

127 Former prison director in Australia interviewed by the author.

128 In the experience of the APT and according to experts interviewed by the author.

129 Clive Harfield, 'Paradigm not Procedure: Current Challenges to Police Cultural Incorporation of Human Rights in England and Wales' (2009) 4 *Public Space: Journal of Law and Social Justice* 91.

130 Expert in penal reform interviewed by the author. See, for example, the 'community of practice' used by Victoria Police discussed in Anita Mackay, 'Operationalising Human Rights Law in Australia: Establishing a Human Rights Culture in the New Canberra Prison and Transforming the Culture of Victoria Police' (2014) 31 *Law in Context* 261, 286.

131 Former United Kingdom police officer interviewed by the author.



In relation to change process in a prison, another interviewee explained how tight supervision was a key part of ensuring that the institution was run in a very different way to before:

supervisors should be supportive, tolerant of people getting it wrong and able to manage this. That means when people revert to old behaviour, managing this by finding out why it happened and how it can be changed.<sup>132</sup>

## 7 Addressing Resistance: Showing it's Better for Everyone

Change processes within organisations can be difficult and painful for those within them – it is not always easy to change deep-seated beliefs about why things are done, let alone routines that have developed over years. It is natural that there will always be staff within closed environments who are sceptical about changes. If a participatory approach to change is adopted, this is more likely to get people on board from the outset.<sup>133</sup> Others may be convinced during the course of the process.

The following are some of the concrete benefits of the human rights change process at the State Hospital Scotland, identified by the Scottish Human Rights Commission in its independent evaluation.<sup>134</sup>

- a change in the culture from 'them and us' to a positive and constructive atmosphere of mutual respect between staff and patients;
- increased work-related satisfaction among staff;
- increased satisfaction among patients over care and treatment;
- staff reported a reduction in stress and anxiety;
- staff reported a reduced 'fear' of human rights and an increased understanding of how to make choices and the meaning and benefit of their own human rights.

This example demonstrates that a well-implemented human rights-based approach in closed environments is likely to 'be better for everyone'. In times of change it is important to emphasise this. But the strongest factor will be when people see the advantages for themselves.

In the context of the above-mentioned change process in Bathurst prison, one interviewee explained the following:

At the beginning, we had a small number of staff who were on board about changes, the majority who thought 'we'll see how it goes' and again a small number who were opposed. It's too complicated to try to win the hearts and minds of people at the beginning. Prisons are hierarchical organisations and in times of change, the first thing people need to know is what to do. Our experience was that later people who were initially sceptical wanted to give it a chance – if they do something and it works, they get on board. Prisoners were on board as well, because they were involved in the decision-making on things that affected them.<sup>135</sup>

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132 Former prison director in Australia interviewed by the author.

133 Ontario Human Rights Commission, above n 80, 26.

134 Scottish Human Rights Commission, above n 40, 5-6.

135 Former prison director in Australia interviewed by the author.

## B *Drivers for Culture Change and the Role of External Actors*

So far we have considered some key steps that can be taken by an organisation responsible for the deprivation of liberty to seek positive culture change. There appears to be general agreement that these processes need to be driven from within. At the same time, culture change cannot be achieved in isolation. External factors play an important role as drivers for change, as well as contributing to the sustainability of the changes.

### 1 Transparency: Opening Up Closed Environments to the Outside World

It has already been noted that in closed environments, cultures can develop unchecked and there is also a risk of abuse. A key aspect of fostering a human rights-based culture in these places is therefore to open them up to the outside world. This can introduce a balancing cultural influence, as well as having a deterrent effect. As the Special Rapporteur has noted:

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.<sup>136</sup>

There are a number of facets to this, including:

- allowing NGOs to enter places of detention to conduct programs providing basic goods and services, such as health care and legal advice;<sup>137</sup>
- creating links between persons deprived of their liberty and the outside world. For example, by allowing communications, family visits, prison visitor schemes and voting rights for prisoners;
- supervision of closed environments by officials such as judges and prosecutors;
- public scrutiny of practices in closed environments, such as through public inquiries; and
- monitoring of closed environments by independent bodies.

The latter two measures represent the highest level of transparency as they involve independent scrutiny of practices within detaining organisations, and thus offer significant potential for bringing about culture change. They will therefore be discussed here further.

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136 *Report of the Special Rapporteur on Torture, Sir Nigel Rodley, to the UN General Assembly, 56th session* (UN document A/56/15, 2001) 9-10.

137 It should be kept in mind that it is the primary responsibility of the state to provide health care for persons deprived of their liberty.

*(a) Public Inquiries*

It is interesting to note that most change processes mentioned in this article were in some way initiated following revelations about incidents within closed environments and/or malpractice by authorities in charge of them, including ill-treatment, deaths in custody, corruption and racism. In many cases, independent inquiries were mandated by the parliament or government. Sometimes these were in response to single cases, but they invariably highlighted broader systemic issues and human rights concerns in relation to detaining authorities and some specifically mentioned the need for cultural change. The press often play a significant role in bringing information to light or reporting on developments in a way that galvanises public opinion on the need for change. These types of high profile investigations, coupled with the public shock and outrage that often precedes and/or accompanies them, can provide the impetus for reform.

For example, in 1997, the Steven Laurence Inquiry was established by the United Kingdom Home Secretary to look into matters arising from the murder of a black teenager in London in 1993, 'to identify the lessons to be learned for the investigation and prosecution of racially motivated crimes' following allegations that the police investigation had been flawed. As mentioned above, the inquiry found that the Metropolitan Police Service was institutionally racist. It made 70 recommendations with the overall aim of eliminating racist prejudice and disadvantage and demonstrating fairness in all aspects of policing, many of which were implemented in subsequent police reforms.<sup>138</sup> The inquiry itself suggested that it had provided 'such publicity and awareness' of the issues surrounding policing and racism and transformed the nature of that debate, that the chance must be seized to tackle the problem and make change.<sup>139</sup>

On occasions, the scandals exposed by commissions of inquiry have shaken the foundations of society, leading to far reaching reforms. The Fitzgerald Inquiry in Queensland (1987-1989) uncovered a web of corruption and malpractice spreading through government and political institutions, and involving respected public figures. That inquiry was initially established to look into allegations of police misconduct, but as the report explains: '[i]t began by pulling a few threads at the frayed edges of society. To general alarm, sections of the fabric began to unravel'.<sup>140</sup>

While public inquiries are usually conducted after incidents of serious concern, independent monitoring of closed environments can help to start change processes before such crises occur.

*(b) Independent Monitoring of Closed Environments*

Independent monitoring involves regular and unannounced visits to closed environments by individuals with diverse expertise relevant to the place of

138 Macpherson, above n 24, 24.2.

139 Ibid, 2.17.

140 Report of a Commission of Inquiry Pursuant to Orders in Council, *Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct* (1989) 4.

deprivation of liberty. They examine first-hand the conditions and treatment of persons deprived of their liberty, focusing not on violations but seeking to understand the procedures, systems, atmosphere and dynamics in a given closed environment. Monitors work constructively with the management of closed environments to provide concrete and constructive recommendations on improving the respect for human rights, as well as making recommendations to higher authorities including government departments and ministries. This holistic approach focuses on ensuring the dignity of persons deprived of their liberty in the broad sense and therefore goes hand in hand with fostering positive culture change within these institutions. The work of Her Majesty's Inspectorate of Prisons for England and Wales exemplifies this approach.<sup>141</sup> It has developed 'Expectations' – a set of detailed criteria according to which it examines 'all aspects of prison life' and through which it promotes the concept of 'healthy prisons'.<sup>142</sup>

In 2006, there was a significant development in this field when OPCAT<sup>143</sup> came into force. The OPCAT established an international system of visits to places of detention by independent bodies at the international level (the SPT) and national level (NPMs).<sup>144</sup> There are now 63 States Parties to the instrument and 41 NPMs established.<sup>145</sup>

A statement by the United Nations High Commissioner on Human Rights in relation to the Maldives, highlighted the kind of impact NPMs can have on detention practices in their countries: '[t]here have also been many advances, most notably the dramatic reduction in the incidence of torture, partly as a result of the setting up of the National Preventive Mechanism within the Human Rights Commission of the Maldives'.<sup>146</sup>

141 Her Majesty's Inspectorate of Prisons provides independent scrutiny of the conditions for and treatment of prisoners and other detainees (see Her Majesty's Inspectorate of Prisons <[www.justice.gov.uk/about/hmi-prisons](http://www.justice.gov.uk/about/hmi-prisons)>). Its work is discussed in more detail in another article in Anne Owers, 'Comparative Experiences of Implementing Human Rights in Closed Environments: Monitoring for Rights Protection' (2014) 31 *Law in Context* 209.

142 See Her Majesty's Inspectorate of Prisons, *Expectations: Inspection Criteria* <[www.justice.gov.uk/about/hmi-prisons/inspection-and-appraisal-criteria](http://www.justice.gov.uk/about/hmi-prisons/inspection-and-appraisal-criteria)>. For more detail see Anne Owers, 'Comparative Experiences of Implementing Human Rights in Closed Environments: Monitoring for Rights Protection' (2014) 31 *Law in Context* 209.

143 The full text is available at <[www2.ohchr.org/english/law/cat-one.htm](http://www2.ohchr.org/english/law/cat-one.htm)>. For more information on the OPCAT, see: APT, *The OPCAT: Frequently Asked Questions* (2009); and APT/IIDH, *The OPCAT: Implementation Manual* (2010). See also Natalie Pierce, 'Implementing Human Rights in Closed Environments: The OPCAT Framework and the New Zealand Experience' (2014) 31 *Law in Context* 154.

144 Following the earlier establishment of a regional system in Europe. The European Committee for the Prevention of Torture (CPT) was set up under the Council of Europe's European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which came into force in 1989. See <[www.cpt.coe.in](http://www.cpt.coe.in)>.

145 As of 18 June 2012.

146 Opening remarks by United Nations High Commissioner for Human Rights Navi Pillay at a press conference during her mission to the Maldives, 24

Given that culture change ultimately takes place at the local level, NPMs – which are based in the country in question – are particularly well-placed to contribute to this.

For monitoring to be effective, it is essential that experts involved be seen as credible in the eyes of the authorities. They must also have the expertise and knowledge to be able to understand the culture of a closed environment through their visits and interactions with staff and persons deprived of their liberty. For this reason, some organisations have recommended that persons formerly deprived of their liberty be included in monitoring teams, as their first-hand experience means they can grasp the culture of an institution and underlying systemic problems, particularly where expertise in the field may be lacking (for example, in mental health).<sup>147</sup>

## 2 Breaking Down Artificial Barriers Between Authorities and Civil Society Actors

A wider issue is that there tends to be an artificial barrier between the authorities in charge of closed environments and civil society, including human rights actors such as NGOs, national human rights institutions and academia working on these issues. The former often see the latter as troublemakers or not understanding the operational nature of the work. But a lesson that emerged from a number of change processes is that culture change is more likely to be effective when these barriers are broken down, and the authorities and civil society work constructively together.<sup>148</sup> In particular, civil society actors can encourage the acknowledgment that there are challenges faced in the deprivation of liberty, as well as suggesting possible solutions. They can provide expertise, including on international practices and facilitate an exchange of experiences in this field. Where they are involved in initial change processes, they are also better placed to monitor practices in the longer term, thereby contributing to the sustainability of change.

## 3 Revolt From Below: The Role of Persons Deprived of Their Liberty

Persons deprived of their liberty may themselves bring about the impetus for culture change in closed environments. For example, starting from the late 1960s, nationwide strikes by prisoners across Sweden, supported by outside prisoners' rights groups and left wing intellectuals, called for better treatment and a more humane prison system.<sup>149</sup> Following stalled talks with

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November 2011 <[www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11641&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11641&LangID=E)>.

147 See Association for the Prevention of Torture, *The Global Forum on the OPCAT: Preventing Torture, Upholding Dignity: From Pledges to Action. Outcome Report* (2012).

148 For example in policing reform in Northern Ireland. See Lamb, above n 56.

149 Roddy Nilsson, 'A Well-built Machine, a Nightmare for the Soul': The Swedish Prison System in Historical Perspective' (2002) 1 *Journal of the Institute of*

prison administration, the then Justice Minister set up a committee with terms of reference that opened the door to a far-reaching reorganisation of the entire prison system.<sup>150</sup> This resulted in new legislation being enacted in 1974, which was much more liberal on the treatment of offenders.<sup>151</sup>

#### 4 Legislation as a Driver For Change

A traditional and recognised social policy tool, legislation can provide a symbol of the accepted moral standard within society. The strength of legislation for bringing about change derives from the legitimate authority the law commands in many societies, as well as the fact that it is backed up by sanctions.<sup>152</sup> New laws can lead to changes in patterns of behaviour especially when they are enforced by institutions. Over time, if this behaviour becomes the norm, the underlying rule can transform into a shared societal value or attitude.<sup>153</sup>

Legislation has been a component of most culture change processes considered in this article. This includes legislation setting out specific rules, procedures and responsibilities in relation to detention, changing the way things are done in closed environments (some examples of which were mentioned above). It also includes human rights legislation which provides a set of principles to be respected by staff of closed environments in the course of their work.

There is some debate in the literature as to the extent to which human rights legislation can bring about culture change by itself, with criticisms that has led to bureaucratic ‘tick the box’ exercises.<sup>154</sup> It can also be challenging to have rights enforced in practice, particularly for persons deprived of their liberty. But there is no denying that such legislation can play a role as part of the broader jigsaw of culture change. As a former United Kingdom police officer commented:

I believe that one of (but by no means the only) the drivers for cultural change in the British police has been the greater emphasis placed on human rights, especially since the passing of the *Human Rights Act* in 1998 – albeit the trend had started some time before that.<sup>155</sup>

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*Justice and International Studies* 11, 17. For a detailed account of prisoner strikes and related negotiations in Sweden in 1970 and 1971, see Thomas Mathiesen, ‘Organisation among the Expelled’ in *Scandinavian Studies in Criminology, Volume 4* (Universitetsförlaget, 1974) 123, 129-172.

150 Former Head of the Research Group, Prison and Probation Service Sweden, in communication with the author.

151 Nilsson, above n 149, 17.

152 Steven Vago, *Law and Society* (10th ed, Pearson, 2011) Ch 7.

153 Cabinet Office, *Achieving Culture Change: A Policy Framework* (2008) 66.

154 Bullock and Johnson argue that in policing in England and Wales, the *Human Rights Act 1998* has become institutionalised as a series of bureaucratic processes, which are used to justify existing practices rather than making police work more responsive to human rights. See Karen Bullock and Paul Johnson, ‘The Impact of the Human Rights Act 1998 on Policing in England and Wales’ (2011) 52 *British Journal of Criminology* 630.

155 In an interview with the author.

In some cases, new laws may reflect already existing changes in wider societal attitudes, and these together have an influence on cultures within closed institutions. Legislation can also provide a certainty not offered by government policies, thereby contributing to sustainability of changes brought about.

## 5 The Need For Human Rights Culture to be Embedded in Wider Society

This brings us to the broader issue of how societal values have a significant influence on whether culture change is initiated in closed environments and how sustainable this change is.

Changes in societal attitudes form the background to much positive change in detention cultures. When a society puts an increasing importance on human rights and accountability, this can trigger changes in practice and may be a factor behind more visible reforms in closed environments. As a former United Kingdom police officer observed:

Before there was a culture of ill-treatment. Detectives would give someone a crack to get a confession. There were rules against it but they were never enforced and the courts turned a blind eye ... But British society started to change. Then the courts decided not to turn a blind eye anymore – they started to refuse evidence obtained through coercion. That had a big impact on policing – because there’s nothing worse for a police officer than losing a case.<sup>156</sup>

This example highlights that societal values are likely to be reflected in the wider institutional framework in which the deprivation of liberty occurs. Courts are often involved in ordering detention in police custody, prisons, mental health hospitals or drug rehabilitation centres and in this role can ensure that safeguards against ill-treatment are respected. In some countries, prosecutors play an important role in supervising police. It may, therefore, not be possible to change culture within a closed environment without seeking culture change in the related institutional framework.

Prevailing societal attitudes will also play a role in determining whether possible drivers for change (such as those discussed above) actually lead to reform initiatives. The public response to reports of malpractice, incidents in detention and prison strikes, as well as the weight given to public inquiries by society, the political elite, decision makers in government, and individual detaining institutions will depend on societal expectations regarding the treatment of detainees and the extent to which human rights and democratic values are embedded in the society in question. Experience shows that these will not always have the effect of generating support for reform.<sup>157</sup>

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<sup>156</sup> Former United Kingdom police officer interviewed by the author.

<sup>157</sup> See, for example, the International Commission of Jurists report, showing that successive commissions of inquiry into gross human rights violations including extra-judicial executions and enforced disappearances in Sri Lanka have had negligible impact on the culture of impunity in relation to such abuses: Kishali Pinto-Jayawardena, *Still Seeking Justice in Sri Lanka, Rule of Law, the*

One factor that has a significant influence on public opinion relating to detention is the perceived level of threat in society from outsiders. Whether in the case of internal armed conflict or the perceived threat of terrorism, the human rights of detainees are often presented as a trade-off with national security.<sup>158</sup> Public discourses can favour draconian responses to outside threats and become more tolerant of ill-treatment and the denial of rights in detention if this is justified as necessary to protect society as a whole. This can lead to deterioration in detention cultures, as seen in the effect of discourses of ‘war’ and exceptionalism following 9/11 on the treatment of terrorist suspects.<sup>159</sup> In a climate of fear, it may be more difficult to change societal attitudes to value the dignity and protection of people in detention, but this seems an important task if culture change is to be achieved.

When reforms are undertaken in closed environments, the values they seek to foster will need to be embedded within wider society, in order to take effect and be truly sustainable. Chan’s study of reform in the New South Wales Police demonstrates this.<sup>160</sup> The reform process aimed to minimise corruption and improve relations with minority groups – the latter in response to allegations of racism, abuse of power and ill-treatment in detention of Aboriginal people.<sup>161</sup> While the anti-corruption policy was to a large extent successful, there were no dramatic improvements found in relations between the police and minority groups.<sup>162</sup> This difference, it is argued, was due to the fact that while there had been ‘widespread community and political concern about police corruption’, there had ‘not been the same type of concern about police racism or police abuse of power’.<sup>163</sup>

In some cases, this has meant that after institutional reform initiatives have taken place, human rights activists have found it necessary to turn their attention to changing prevailing societal attitudes.<sup>164</sup> Indeed, through campaigning, advocacy and reporting, civil society can play a pivotal role in bringing about changes in the tide of public opinion on detention and related issues.

## VI CONCLUSION

This article has looked at what works to positively change cultures in closed environments to improve the respect for human rights within

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*Criminal Justice System and Commissions of Inquiry Since 1977* (International Commission of Jurists, 2010).

158 On the International Commission of Jurists, *Assessing Damage, Urging Action: Report of the Eminent Jurists Panel on Terrorism, Counter-Terrorism and Human Rights* (2009) 16.

159 Ibid, 49-64

160 Chan, above n 33, 109.

161 Ibid.

162 Ibid.

163 Ibid, 130.

164 Lamb, above n 56, 393.



them. Culture in closed environments was understood to mean the shared assumptions and values that guide behaviour within them. Three key factors were seen to influence this:

1. the organisational paradigm as set by management;
2. the experiences of staff and detainees and how they interact with each other; and
3. attitudes in the broader society.

Ensuring human rights in closed environments involves putting people at the centre of policies and action.

Although there is no one solution to achieving positive culture change in closed environments, the article sought to draw out a number of policies and practices that can contribute to it. In terms of internal reform initiatives, these start with a committed leadership that articulates a new vision of what the organisation does and why, based on human rights. Aspects of the organisation may then need to be modified to fit this new paradigm, including its policies and procedures, symbols and language, staff recruitment and training, and supervision and reinforcement practices. Ensuring participatory processes and addressing resistance are ways to contribute to the success of change efforts as well as their sustainability.

At the same time, organisational culture change is a gradual and long-term process, which also relies on outside factors and drivers for change. Opening up closed environments to the outside world, including through independent monitoring, is a key way to introduce a balancing cultural influence and encourage positive change. The cultures in closed environments will also reflect wider attitudes in society. Sustainable culture change within them will therefore depend on changes in the dominant political discourse and public opinion, as well as in the institutional frameworks in which they exist.