

Guidance Note 12

Encouraging the involvement of civil society

Summary

- Without civil society involvement prison reform is unlikely to be achievable or sustainable. Prisons need the involvement of outside groups if they are to adhere to international human rights standards and the rule of law.
- Active civil society organisations can lay the groundwork and establish a favourable climate for change in situations where the government is unwilling to embark on prison reform.
- Organisations specifically concerned with promoting human rights standards and prison reform are indispensable to a reform effort, though some prison administrations regard penal reform organisations as hostile. Bringing the two into a working relationship is beneficial.
- Wider involvement of civil society organisations concerned with, for example, women, health, discrimination or the arts, can make an important contribution to humanising prisons, as can religious bodies.
- Lawyers groups can lead the work to protect prisoners' rights.
- Sustained efforts to generate a well-informed media are vital.
- International non-governmental organisations can give strength to local organisations working in inhospitable circumstances.

“ All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

— *Article Ten, United Nations International Covenant on Civil and Political Rights*

Guidance Notes on Prison Reform

This guidance note is number twelve in a series designed to give practical help to those developing and delivering prison reform projects. All the guidance notes:

- are set within the international human rights framework
- apply in a variety of cultural and political environments
- propose solutions that are likely to be sustainable in a variety of socio-economic situations and do not involve a significant increase in resources
- take account of the realities of prison management

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Public involvement in the prison system

When countries move from a totalitarian regime to democracy, ending secrecy about the prison system and giving members of the public and civil society organisations access to prisons is often one of the first changes that is made. Prisons move from being closed state secrets to institutions in the public domain. They are no longer part of the military-repressive apparatus but become public institutions that provide information about themselves and welcome outsiders. Religious bodies, artists, social welfare, sports and counselling organisations, educators and befrienders are admitted. Journalists are allowed to visit to write about prisons and news and features about prisons start appearing in the media. Often prisoners are permitted to write to the newspapers for the first time.

Why involve civil society?

Civil society involvement is a key element of the prison reform process. Without support from bodies outside the prison system, prison reform is unlikely to be sustainable.

- Prisons cannot be rehabilitative civilian institutions (see Guidance Note 9) without the co-operation and support of the wider society.
- Prison systems where prisons are open and accessible to a wide range of groups are more likely to keep to human rights standards. Prisons are less likely to be able to conceal human rights abuses if visitors are coming and going, talking to prisoners and visiting them in the cells and workshops.

Civil society involvement can take many forms:

- providing humanitarian aid to prisoners, such as food and medicines
- assisting the social reintegration of released prisoners
- assisting with prison activities such as education and sport
- simple befriending
- monitoring adherence to human rights standards
- using the law to protect prisoners' rights
- carrying out non-partisan campaigning
- providing public education



Last Wednesday I said Mass in one of the four prisons I go to, Mwembeshi, some 50 km out of the city... I take a group from the parish, usually to do the singing, many of them coming from our shantytown, Misisi. They like to collect money to give the prisoners something. Last Wednesday each of the 250 prisoners got a little packet of salt and a piece of soap, each bar being cut into five pieces. The prison authorities don't give out soap and often not salt to put into the dull, meagre one meal a day the men get, so the inmates were delighted with what they received. Scabies is a big problem and at times we take what is required to kill the lice and bed bugs.

Last Thursday I went to the women's prison for Mass, again under a tree and competing with a strong wind. I always take a couple of drums with me. As usual there were a few problems, food and clothing for the children with their mothers, contacting lawyers who seem slow in coming to see their clients...

Father David Cullen, Zambia 2003¹

Benefits come to prisons, prison staff, and the wider community from such involvement.

- Prisoners benefit because people who see them as fellow-citizens are visiting the prison voluntarily, not because it is a professional and paid duty.
- Prison staff benefit because their environment is normalised by the presence of outside groups and they too can see that they are not cut off from the community outside.
- The community benefits because knowledge about the reality of prison life and what prison can and cannot do will be disseminated.

Outside groups with knowledge of prisons can play an important public education role in the wider society.

“ In November 2002 the rate of imprisonment in the Bahamas was 11th highest in the world and conditions in its single prison, HM Prison Fox Hill, were notorious throughout the region. The recently elected Government of the Bahamas decided that action should be taken to remedy this situation, and so they established a Prison Reform Commission, composed of independent experts from a wide cross section of the community. The members included a dentist, social worker, police officer, nutritionist, public health doctor, human resources specialist and a teacher.

ICPS Mission Report 2002

If as a result of more openness the prison system learns how to work with the media, support for the work of prisons and prison staff and for necessary reforms can be mobilised.

Civil society organisations can bring additional resources

Developing relationships with civil society organisations can be indispensable for prisons working with very few resources. They can help prison systems by bringing in human and material assistance.

“ The General Management of the Prison Administration and Supervised Education of Mali [Direction generale de l'administration penitentiaire et de l'education surveille du Mali (DNAPES)] encourages prison directors to show initiative and contact NGOs or associations directly, in order to set up projects to improve conditions of detention.....In one of the prisons visited, a project developed by the director and two national NGOs not only made it possible to build a separate wing for juveniles, but also to set up a carpentry training course for young prisoners...

Penal Reform International, *Penal and Prison Reform in Africa* 2003²

Prison reform organisations

The development of respected non-governmental organisations dedicated to supporting prison reform in the long term is a major plank of any sustainable reform process. Prison reform efforts by governments are often very fragile. Genuinely reforming governments are few and may not last long. A change in one government minister or a campaign by one newspaper can de-rail a reform programme. Without sustained pressure reform efforts often flourish only briefly before the system sinks back into a mediocre status quo. Changes of government towards a less human rights oriented approach can leave prison administrations that have embraced reform very exposed. When the impetus for reform is a scandal such as overcrowding or an

outbreak of infectious disease, the easing of the particular problem can lessen the reform enthusiasm.

For prison reform to be sustainable, therefore, civil society organisations dedicated to prison reform are necessary whether they undertake this activity as one aspect of their work as a human rights group or as specialist organisations. For any reform momentum to continue, long term campaigning and sensitisation is needed to create a constituency committed to reform and determined to protect it when the climate becomes less favourable.

“ If state agencies are supported, local NGOs working in the same sector should, if possible, also be supported, so as to engender constant pressure for reform on the state institutions concerned.

OECD, *Evaluation of programmes promoting participatory development and good governance* 1997³

Forming, developing and sustaining competent and non-partisan non-governmental organisations dedicated to prison reform is not easily done. It can take years from a decision by a small group of enthusiasts to form a penal reform organisation to it becoming sustainable and influential.

Relationships between prison administrations and penal reform groups

Prison reform benefits considerably from partnerships between those working in the system and those working outside. Much effort needs to be expended however on both sides to create good working relationships. On the side of the prison there will be suspicion of outsiders coming in and fear that they will threaten security and behave naively in the prison environment, without a full understanding of the constraints and realities. Prison staff may also fear criticism about the conditions of imprisonment and their treatment of prisoners. They may suspect that prisoners will use the involvement of outside organisations as a reason to become aggressive about getting what they understand to be ‘their rights’.

Those coming in from outside may have problems to resolve. They may resent the security restrictions and the procedures required on entry, such as being searched, and regard them as a reflection on their trustworthiness. They may feel that the prison staff make working in the prison unnecessarily difficult for them and show no appreciation of their contribution. They may fail to convince the prison staff that their contribution is not negative but intended to improve prison life for all those involved.

In some countries prison systems may accept humanitarian aid from welfare organisations and permit visits from religious groups but regard all other groups concerned for prison reform as hostile and damaging to the interests of the prison system and prison staff. Such hostility is often a legacy of a history of opposition between human rights groups and the state. Prison authorities may refuse to attend meetings with prison reform groups, or not co-operate with seminars where they participate or speak. Prison employees may be prevented from joining even well-established, mainstream, respected groups.

Work to improve this relationship is worth undertaking if:

- it is in the long-term interests of those who run prisons and work in them to support the efforts of groups that publicise bad prison conditions and demand more resources, more training and fewer prisoners

- prison reform groups can be more effective and more credible if they can form alliances with the prison administration itself, prison staff associations and trade unions or prison educators

Diplomatic missions can have an important role in arranging events that bring together prison administrators and respected non-governmental organisations on neutral territory to enable suspicion to be dispelled and relationships developed.

Civil society and prison monitoring

In many countries there are no governmental bodies monitoring the prisons for adherence to the rule of law. Non-governmental organisations often fill this role though many lack the resources to carry it out adequately.

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

The main reasons are as follows:

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

APT and OSCE, Monitoring places of detention: a practical guide for NGOs 2002⁴

Monitoring prisons is not easy work for a non-governmental organisation. It needs to be well-resourced enough to carry out the work regularly. One-off visits are not likely to make an impact. To make the task manageable, organisations might identify groups most likely to suffer abuse in the prison environment and concentrate on monitoring their conditions and treatment, or choose a small number of representative prisons. Other respected bodies such as religious organisations might become involved to make the task more feasible. Considerable time will need to be devoted to building the relationship with the prison administration and in training the individuals undertaking the monitoring.

Using the law to protect prisoners' rights

Much prison reform comes from successful court cases which establish that a certain practice is unlawful or require a government to give redress to prisoners who have been harmed or to their dependants if loss of life is involved. Such cases are often brought by non-governmental organisations who specialise in using the law to protect and strengthen prisoners' rights.

“ In a lawsuit filed on behalf of a gay African-American man who was repeatedly raped by Texas prison gangs, the American Civil Liberties Union today urged a federal appeals court to uphold a district court ruling that denied prison officials qualified immunity for their failure to protect him. “Court records show that for years, violent gangs have terrorized vulnerable Texas prisoners but officials deliberately ignore the evidence and

fail to stop it,” said Margaret Winter, Associate Director of the ACLU’s National Prison Project.

ACLU Press Release 2004⁵

Some international organisations work with domestic groups in-country to take cases through the national and international legal machinery. The Center for Justice and International Law (CEJIL) is based in Washington DC with offices in San José, Costa Rica and Rio de Janeiro.⁶ It specialises in taking cases through the inter-American system, defending them before the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. Interights based in the UK helps lawyers and others to prepare cases to national, regional and international courts.⁷ The Aire Centre does similar work in Europe.⁸

Ex-prisoners’ organisations

Some penal reform organisations are founded by, or mainly consist of ex-prisoners. Their work often centres on finding ex-prisoners somewhere to live, providing education and training and giving them support when they leave prison. Others take a more high-profile approach and aim to represent ex-prisoners in public debates and make comments to the media when a prison-related topic is in the news.

“...one independent non-political NGO, the Society for the Defence of the Rights of Prisoners (SDRP), was granted permanent permission to operate in July. The SDRP works to protect detainees and promote prison reform. It has established a small fund to provide free legal advice to prisoners and it supports the families of detainees. Even though the SDRP was recently granted a licence, its members fear that political pressure could result in its closure at any time. The founders of the SDRP include former prisoners of conscience Emadaddin Baqi and Mohammad Hassan Alipour.

Amnesty International, *Human rights defenders in Iran continue to suffer harassment* 2004⁹

Research, information and statistics projects

Collecting and publishing information about prison systems can be an effective strategy to keep prison reform on the public agenda and build up a more well informed public and parliament. Government statistics are sometimes imperfect and the publication of information on, for example, how many people are in prison because they could not pay a small fine can make an effective point about the use of prison. Similarly, small studies of the treatment of women in prison or how some aspect of prison treatment compares with other countries can be low-cost and good value if the dissemination strategy is effective. Publishing annual reports showing the progress of prison reform can keep the subject on the agenda and revive flagging efforts.

The role of academic institutions

Universities and other academic institutions can make a contribution to many aspects of prison reform by assisting with staff training (see Guidance Note 8) and encouraging students to become involved in giving legal advice to prisoners or teaching prisoners. They can also provide independent evaluation of prison reform developments.

“ GENEPI is a French organisation of students that supports social reintegration by developing contacts between prisoners and students in higher education. The GENEPI volunteers supplement the work of prison professionals by giving educational support at the basic level (for example teaching literacy, French or mathematics) or by supporting prisoners undertaking higher education (for example law, philosophy, economics) either for its own sake or for a qualification. The students also get involved in creative activities such as theatre and music. Outside prisons GENEPI volunteers work to counteract prejudice against ex-prisoners by involving schools and colleges in debates and organising exhibitions, concerts and readings of literary works by prisoners. A regular GENEPI newsletter aims to educate the public.

Adapted from *About GENEPI, Prison and Social Reintegration*¹⁰

The effectiveness of small civil society projects

Projects to encourage civil society involvement in prison systems can be a very effective way of using small amounts of resources and making an impact. Support can be given to groups who visit to give prisoners the basics of life, or those who provide materials for prisoners to make saleable items and then bring them out to sell. Bringing in a doctor to remove prisoners' tattoos can be very helpful to social re-integration.

Artists, dramatists, writers and musicians working in prisons can help to show that prisoners also have talents. Exhibitions and performances can be very good for showing the public that prisoners are detained citizens who have a contribution to make.

“ Last year's first year students visited the jail in three groups, each working with either adult men in the maximum-security section, boys in the youth section, or women inmates. “In the women's group many students were distressed to learn that those prisoners who have had babies while in prison, have to hand over their children for adoption at age two... this brought bitterness to the fore among the inmates and was painful for the students, who were suddenly confronting many conflicting emotions,” Equally paradigm breaking was the realisation for the students that white people, too, go to jail. “Some of the students were quite surprised to see white prisoners.” The inmates, too must confront deep issues, making for an emotional event for all involved. “They are prisoners – by definition they are excluded from society... now they are socialising, playing host to the students and engaging in candid conversations. It is especially emotional for the inmates to engage in discussion across class and ethnic groups. In addition, they are performing; and all performance is a risk. But it is positive risk-taking.”

University of Kwa-Zulu Natal, *Performance studies, prison theatre 2004*¹¹

Assisting projects that give prisoners a chance to work for the benefit of others can have many helpful outcomes. A number of countries organise work in prisons to enable prisoners to make products that are sold for the benefit of charities, refurbish wheelchairs for disabled people or perhaps make benches and railings for local parks. Such work re-connects prisoners to the community and reminds the community that prisoners can make a positive contribution to society in spite of their status.

Prisons and the media

Successful work with the media is a basic component of a prison reform programme. Accurate information about the problems of prisons and what prison can and cannot achieve needs to reach the public.

“ Third, better information – that makes citizens more aware of the money allocated to their services, the actual conditions of services, and the behavior of policymakers and providers – can be a powerful force in overcoming clientelist politics. The role of a free and vibrant press and improving the level of public discourse cannot be overstated.

World Bank, *World Development Report 2004* ¹²

Long term work with the media is needed to overcome the sensationalism that can accompany much prison reporting and the danger that reporting about prisons will oscillate between describing them as holiday camps one day and cells of death the next. Prison administrations can get great benefit from investment in a well-functioning press office and training for senior prison staff in working with the media.

The work of international non-governmental organisations

In some countries work to reform prisons is not looked upon favourably by the authorities or the public. Organisations that take up the prison cause are often regarded with hostility and suggestions that they would do better using their time to fight for more deserving causes. In such situations support from abroad can be essential. Such support can come from international non-governmental organisations such as Penal Reform International or the Association for the Prevention of Torture who can work in partnership with local organisations, help them to find funds, give their work legitimacy in the eyes of the public, and link them in to an international network of like-minded people. International non-governmental organisations can also work with intergovernmental bodies to highlight prison problems and help local organisations to raise these issues in international settings.

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