

Guidance Note 3

Measuring and evaluating project outcomes

Summary

- Evaluating the human rights outcomes of prison reform projects requires more than reporting on actions that have been taken.
- Establishing cause and effect when aiming to show that an intervention has succeeded can be difficult. Nevertheless an evaluation framework can be constructed, based on the main international human rights requirements.
- Measuring changes in law, procedures and institutions needs to be carried out alongside consideration of reports of actual prison conditions and prisoners' treatment.
- Where a whole penal system is being reformed, measures such as a reduction in the prison population, reformulation of the ethos of the prison system, opening prisons to civil society and establishing independent monitoring can all be indicators of progress.
- Surveys can measure changes in prison conditions, prisoners' treatment and prison staff attitudes.
- The impact of specific inputs, such as the introduction of independent monitoring or supporting civil society organisations, can be assessed.

“ 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 three 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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Prison reform outcomes are difficult to measure

Changes in the level of human rights observance of prison systems can be difficult to measure.

A change that has been described as a reform may not in fact lead to better prison conditions, fewer deaths, less ill-treatment, fewer juveniles in custody or more protection of women prisoners from sexual abuse.



Justice performance is hard to evaluate.

Ramaswamy Sudarshan, *Rule of Law and Access to Justice* 2003¹

Simple, objective indicators of success are easier to find for programmes to increase crop yields or vaccination rates than for programs to strengthen civil society or the rule of law.

Thomas Carothers, *Aiding Democracy Abroad* 1999²

Evaluation of a programme sometimes consists of no more than reporting that a new building has been put up and is being occupied, a certain number of prison officials have attended a human rights course and received a certificate, a report has been written identifying the deficiencies in a particular system and suggesting a course of action, or a group of senior managers has spent several weeks in another jurisdiction observing their methods and studying their system. Such interventions do not necessarily produce any change in the attitudes of prison staff or the treatment of prisoners.

Refurbishing buildings may sometimes improve conditions for prisoners but on other occasions it may not. An expensive new building with individual cells and integral sanitation can be worse to live in than an old-fashioned block of dormitories round a yard if the prisoners are locked all day in individual cells with small windows and if there is no water to flush the new internal lavatories.

Training of prison officials may have unintended consequences. For example, if human rights training of prison staff is carried out badly it may simply increase their awareness of the limitations on their own rights while increasing their resentment towards the prisoners.



The first question: "Are you saying that men who cut the head off a hostage last month are entitled to human rights?" Nothing in writing could do justice to the vehemence of the words as they spring from a prison director who is now standing to full height. He addresses me with the formal title of doctor, but the words are spat across the room at me.

People's Palace Productions, *Staging Human Rights* 2002³

A report written by a visiting expert may be read, but then be seen as too awkward or too difficult to implement and simply be filed in a cupboard. A visit for prison officials to another country, particularly if the visit is from a poor country to a rich one, may lead to incomprehension that prisoners in the host country have a higher standard of living than law-abiding citizens in the country of the visitors.



Prisons in the UK are like Black Sea spas.

A Ukrainian prison official, ICPS Mission Report 1999

Measuring outputs such as new buildings, hours of staff training given, laws rewritten, seminars held and study visits undertaken will not automatically show that good work has been done to establish a more human rights compliant prison system.

There are also dangers in assuming change has been made for the better because one aspect of a system has changed. For example, improving the quality of policing may lead to higher detection rates for crime. More people will be arrested and charged. The numbers in pre-trial detention will probably increase. Prisons holding pre-trial detainees will become more overcrowded and dangerous to health. The courts will be overwhelmed with cases so that cases take longer to come to trial and time spent in pre-trial detention is even longer. Evaluation therefore needs to look at the impact of the change on the rest of the system as well as whether or not the project led to the desired outcome.

Evaluating projects for indirect reform

A government may be unenthusiastic about prison reform. In those circumstances projects may be supported because they aim to introduce an indirect agenda for reform, for example by influencing the public debate about prisons, changing the attitude of the public towards prisons and prisoners by providing research and information, or by working towards changes in the law. Such projects can be carried out by NGOs, lawyers groups and various civil society groups.

It can be difficult to measure the outcome of some of these activities. For example a particular group or coalition of groups may campaign hard for the protection of prisoners' rights. When, after ten years of such campaigning, a new law is passed that protects prisoners' rights, many interested parties may claim the credit and it is not possible to prove whose work made the reform possible.

“ Evaluators often try to analyse the links between a single project and changes in the overall human rights situation. This is an extremely difficult task because of other variables.

OECD, *Evaluation of programmes promoting participatory development and good governance* 1997⁴

Positive change can be measured

However, prison systems do improve and the improvements are measurable. Since the break-up of the former Soviet Union the treatment of nearly all the 1.3 million prisoners in former Soviet bloc countries has measurably improved. Most former Soviet states have brought their prison systems within a framework of legality, accorded prisoners social rights and eliminated humiliating procedures such as head-shaving and cruel punishments such as placing in dark cells.

In a number of states in various regions of the world, governments have come to power determined to reform the prisons and have to some extent succeeded. In Chile for instance a root and branch reform of the justice system has included reform in prisons. Some examples of the changes brought about by the prison reform programme include:

- more humane admission procedures with information leaflets given to all new arrivals, arrangements for arriving detainees to telephone their families and improved procedures for medical screening

- better hygiene with more clean sheets and more provision of cleaning materials
- better health care
- less intimidating isolation cells
- more prisoners able to work with better pay, more training and provision of some work for vulnerable prisoners and women
- more education classes and partnerships with local libraries
- better social reintegration with the involvement of social work students
- children allowed to visit their imprisoned fathers
- better complaints procedures and information to prisoners about them and about their legal rights
- a special unit for pregnant women and mothers with babies
- separation of juveniles from adults

It is still possible that Chilean prisoners will be ill-treated, many will feel unsafe and at the mercy of stronger prisoners, not all illnesses will be treated promptly and adequately. However, the changes listed above are both measurable and contribute to a prison system which is more compliant with human rights.

What to measure

The framework within which measuring needs to be done is the international human rights framework. Using this framework ensures that outcomes are measured that must form part of a prison system operating within an ethical context. Such a context puts proper treatment of prisoners at its heart. Managerial outcomes are important but secondary.

A checklist based on the following international requirements could be a useful framework when trying to construct indicators that can measure changes in the observance of human rights in a prison system.

Right to life

Deaths in custody, number, trends and arrangements in place to ensure they are accurately recorded and independently investigated, arrangements in place to ensure lessons are learnt and illegality is dealt with. Prevalence of infectious diseases such as tuberculosis, HIV, and hepatitis B and C, trends in mortality. Treatment of mentally ill and suicidal prisoners.

Prevention of torture and inhuman and degrading treatment and punishment

Reports of torture or inhuman and degrading treatment by domestic and international bodies, prisoners' families, the media (though increased reports of ill-treatment may just indicate that the prison system has become more open and complaints formerly suppressed are reaching the outside world).

Right to family life

Information from government and non-governmental sources and consular visitors (who visit their own nationals in prison)⁵ about the number of prisoners visited, the frequency of visits allowed, conditions of the visits, whether children may visit their parents in prison, access to telephones, whether mail is read and stopped and whether all prisoners, including the indigent, can send letters.

Treatment with humanity and respect for the inherent dignity of the human person

Existence of a document setting out the ethos of the system which is communicated to staff, amount of human rights training for staff, reports from international and domestic bodies, consular visitors, the media and families.⁶

Prison treatment should be rehabilitative

Government, NGO and consular visitors' information on the availability of education, work, links with the outside world.

Reform of a whole penal system

Where a whole system is being reformed and humanised indicators of success can be:

- a sustained reduction in the prison population
- a reduced use of pre-trial detention
- a new sentencing framework with shorter and fewer prison sentences
- the introduction of alternative measures that are used by the courts, accepted by the public and actually used to replace prison sentences rather than to increase the number of people subject to sanctions
- a reduction in the number of juveniles in custody
- removal of seriously mentally ill people from prison
- no compulsory testing for HIV infection and no automatic segregation of HIV infected prisoners
- more judicial involvement in decisions affecting deprivation of liberty
- opening of prisons to access by civil society groups
- introduction of independent monitoring mechanisms
- introduction of independent complaints mechanisms such as ombudsmen

Measuring changes in prison conditions

Improving basic living conditions for prisoners can be a large part of ensuring that prison treatment is not inhuman and degrading. A project that aimed to improve living conditions might put together a collection of factors to form a rounded picture of whether the improvement is real. A reasonable package of indicators might include:

- size of cell or dormitory
- space per prisoner in square metres
- time spent in cell or dormitory (a smaller space may be acceptable if prisoners are only in the cell or dormitory at night)
- number of people in the cell or dormitory (the method of selection of sharers and the attention paid to compatibility and prisoner safety might form a part of the assessment)
- number of bed spaces in relation to the number of prisoners
- whether there is access to sanitary facilities or whether there are sanitary facilities in the cell or dormitory and if so are they screened
- access for women to necessary hygiene products
- how much natural light there is (again more important if the cell is occupied all day and not just at night). Is there enough light to read by?

- provision of basic necessities, such as a bed or mat, bedding
- regularity, amount and quality of food
- access to drinking water
- temperature (is it freezing in winter or excessively hot in summer?)

Measuring prisoners' access to their legal rights

To be human rights compliant, prison systems must ensure prisoners have appropriate access to legal advice and to remedies for alleged abuse. Indicators might be:

- prompt access to lawyers for pre-trial detainees
- provision of information on how to complain and how to seek redress in languages that the prisoners can understand
- display within the prison of posters setting out information about complaints machinery and consular access for foreigners
- in countries where resources are scarce the establishment of a para-legal service to give prisoners legal advice

Measuring the prevention of torture and ill-treatment

The closed nature of prisons and the imbalance in the power relationship between prisoners and prison staff mean that ill-treatment is a permanent possibility in prison systems everywhere. A major element of prison reform projects is to put in place mechanisms that reduce the likelihood of ill-treatment. Such mechanisms include independent inspection, ombudsmen, visits by human rights bodies and oversight by parliament. Oversight mechanisms are more likely to be successful if they have:

- independence from the prison authorities
- unrestricted access to places of detention and confidential access to prisoners and their families and to prison staff
- power to publish findings (with some withholding of security information)
- power to require practices to be changed

Measuring changes in the attitudes of prison staff

The attitudes of prison staff are key to the proper treatment of prisoners and many prison reform projects are directed to changing staff attitudes through training, exposure to other systems and practices, and involving them in the process of change. Measuring the effects of all this activity is complex. Methods that can be used include:

- staff surveys
- surveys of prisoners to ascertain how their treatment by the staff has changed
- assessment of certain aspects of prison practice to establish whether staff are using a different approach or taking different decisions
- seeking the views of prisoners' families

“ A composite program for the prevention of HIV infection in prison, and management of HIV positive prisoners was implemented in Nizhnii Novgorod from May 1999 to September 2000. The project made major accomplishments in the areas considered below:

First, ... the project changed enormously the attitude of the administration towards HIV infection. The prison administration changed its ... response to the epidemic, from passive epidemiological control to proactive provision of information and better care. ... Secondly, the project conspicuously improved the living conditions of HIV positive inmates. A new wing for HIV positive prisoners was built within tuberculosis colony No. 3, allowing transfer of dually infected inmates from the ... hospital to the colony, where their living arrangements were quite acceptable... Finally, the project certainly influenced the knowledge of prison staff concerning HIV transmission and risk involved with dealing with HIV positive prisoners.

Herman Reyes and Paola Bollini, *Evaluation of the implementation of the project of HIV prevention in the prison system of Nizhnii Novgorod oblast 2000*⁷

Measuring the work of civil society groups

Changes in the indicators listed above may all be the result of a combination of factors including the work of civil society organisations. Evaluating the impact of the work of civil society organisations is complex because much of what they do is long-term and not narrowly outcome-related. Possible indicators are:

- visibility – are they successful in getting the penal reform message heard?
- strategy – do they have a coherent plan for influencing the debate based on an assessment of what actions will be influential?
- credibility – do they produce documents that command respect, get media coverage and are taken seriously by government and parliament?
- broad-based – do they manage to reach beyond the human rights activists and criminal justice groups to the wider public, such as women’s groups, community groups and groups concerned with health and education?

Using measures of reconviction after prison

It is often suggested that reconviction rates of people leaving prison should be measured in an attempt to evaluate the ‘success’ of imprisonment. This is a problematic undertaking. Comparing re-offending rates and drawing appropriate conclusions from them is a difficult process. The actual number of new crimes committed by all released prisoners cannot be known because such actions are normally kept secret. So re-offending rates can never be measured satisfactorily. The number of arrests and reconvictions of released prisoners can be discovered if the statistical base is good enough (although it rarely is, even in countries with very developed statistical capacity).

Furthermore, comparisons with other jurisdictions’ reconviction rates are not easily done because data on reconviction rates are collected in different ways and over different time periods. Some jurisdictions count a technical violation of parole as a re-offence and others do not. None measures the seriousness of reconvictions in relation to the earlier offence. Therefore, the statistics are not easily compared or interpreted. If there is a change in the reconviction rate for a prison system the first question that criminologists would ask is not ‘what are they doing right?’ but ‘how have they changed their intake?’. Research shows that the best predictor of whether an offender will be reconvicted is past criminal record, number of previous prison sentences and social background.

“ An analysis carried out by the research department of the Correctional Service of Canada of 50 studies dating back to 1958 involving 336,052 offenders showed that:

- none of the analyses found imprisonment to reduce recidivism
- the recidivism rates for those imprisoned and those given community sentences were similar
- longer prison sentences were not associated with reduced recidivism

Correctional Service Canada, *Forum on Corrections Research* 1998⁸

So a reduction in the reconviction rates of prisoners, assuming the data are accurate, could be due to many factors, such as a change in the intake to lower risk offenders, a change in the circumstances outside prison (a pick-up in the economy perhaps), a change in police practices (no longer targeting ex-prisoners in their investigations).

Comparing the reconviction rates after a prison sentence with the reconviction rates after a non-prison sentence is also problematic because the situation and backgrounds of the convicted people given the different sentences are not comparable.

References

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- 2 Thomas Carothers, *Aiding Democracy Abroad: The Learning Curve*, Carnegie Endowment for International Peace, Washington DC, 1999, p.284
- 3 *Staging Human Rights 1: Interim Report*, People's Palace Productions, Queen Mary, University of London, May 2002
- 4 *Evaluation of programmes promoting participatory development and good governance*, Organisation for Economic Co-operation and Development, 1997, pp.86-87
- 5 Under Article 36 of the Vienna Convention on Consular Relations, 1963, local authorities must notify all detained foreigners "without delay" of their right to have their consulate informed of their detention. At the request of the national, the authorities must then notify the consulate without delay, facilitate unfettered consular communication and grant consular access to the detainee
- 6 See Andrew Coyle, *Humanity in Prison: questions of definition and audit*, International Centre for Prison Studies, 2003, for an analysis of how to measure treatment with humanity and an audit tool
- 7 Hernan Reyes and Paola Bollini, *Evaluation of the implementation of the project of HIV prevention and management activities in the prison system of Nizhnii Novgorod oblast, Russian Federation*, Penal Reform International, 2000
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