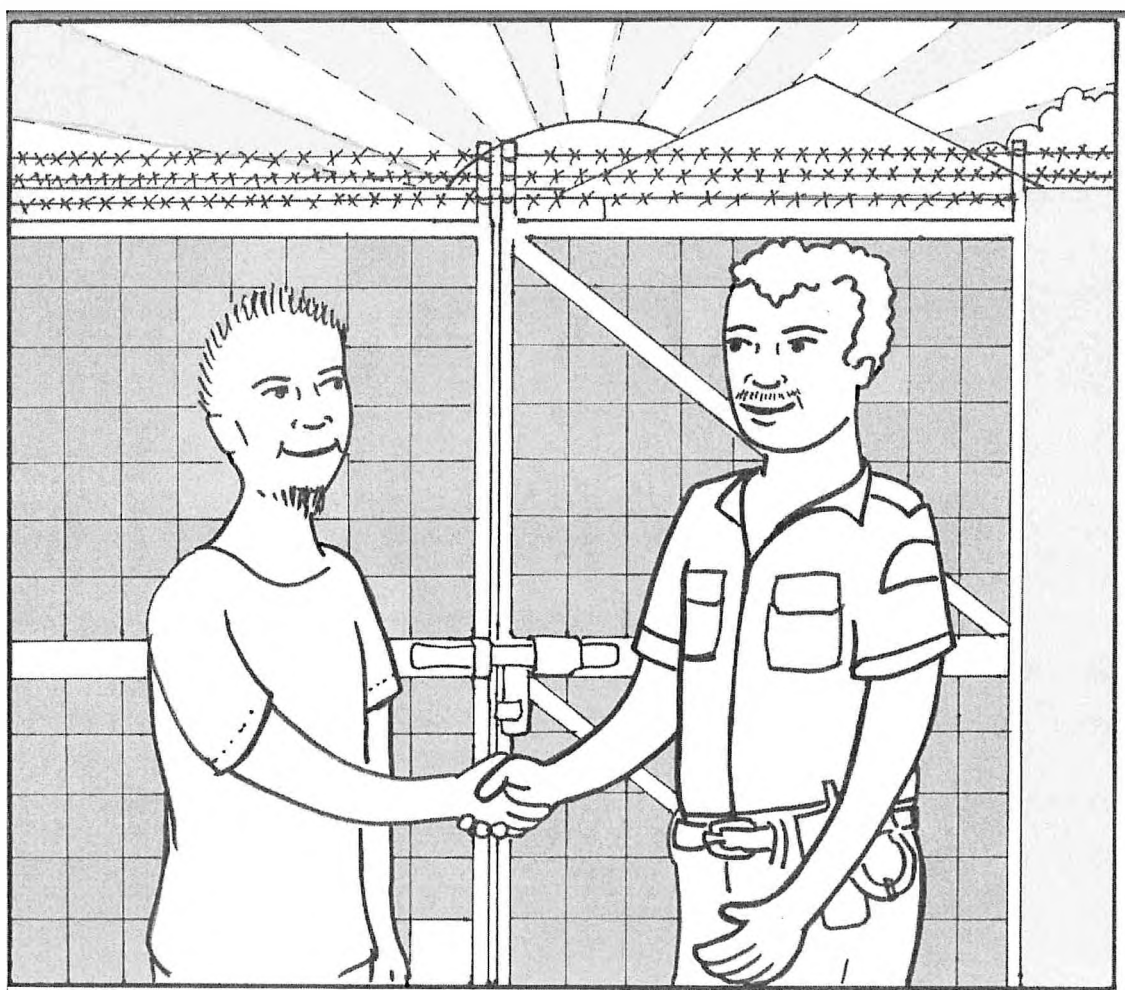


HUMAN RIGHTS IN PRISONS

A HUMAN RIGHTS MANUAL FOR
PRISON SERVICE PERSONNEL OF EAST TIMOR



Human Rights Unit
United Nations Mission Of Support in East Timor (UNMISET)



TEN BASIC HUMAN RIGHTS STANDARDS FOR PRISON OFFICERS

Fully respect the following basic rules under all circumstances:

1. All persons deprived of their liberty shall be treated at all times with humanity and with respect of the inherent dignity of the human person. Imprisonment is for punishment not as punishment. Prisons shall be places in which no discrimination is shown in the treatment of prisoners.
2. Detention shall only to be carried out strictly according to the law and in officially recognized places of custody.
3. Be especially vigilant of vulnerable prisoners with different needs, beliefs, special situation or disadvantaging status such as women, juveniles, mentally-ill, pre-trial and foreign inmates. They shall be accommodated separately from the general prison population and benefit from special care.
4. Maintain human dignity at all times in the condition and treatment of inmates. Ensure the physical and mental well being of prisoners through adequate standards of accommodation, hygiene, nutrition, regular recreation and physical exercise, and access to religious practice, educational and cultural activities as well as the highest attainable standard of health care.
5. Do not use force against an inmate except as a last resort, in self-defence and/or when strictly necessary and to the minimum extent required under the circumstances.
6. Protect all inmates from torture and cruel, inhuman or degrading treatment or punishment. There are no exceptions. Orders from a superior officer may not be invoked as a justification.
7. Impose disciplinary measures only where necessary for the maintenance of order, security, and safety and they must be specified by law. No prisoner can be punished before being informed of the alleged offence and before being given the opportunity to present a proper defence.
8. Upon admission inform inmates of the rules, complaints and disciplinary procedures in practice. Prisoners and prison personnel enjoy the right to complain to those authorised to inspect the detention centre. Personnel are obliged by law to fully cooperate with inspectors and report all breaches of these basic standards to them as well as their superiors.
9. Encourage programmes of vocational training, work and rehabilitation for inmates as necessary for their eventual successful reintegration into society upon release. Fully respect prisoners' right to contact with the outside world through visitors and correspondence.

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| 10. Guarantee prisoners' access to legal counsel, particularly for pre-trial prisoners who are presumed innocent, including their right to communicate freely with him/her without censorship and in confidence. |
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Preface:

The objective of this publication is to assist personnel of the Prison Service of East Timor, among others, to implement United Nations human rights standards for prison conditions and the treatment of detainees and prisoners. Good prison practice is about maintaining human dignity, making prisons safe and secure, and guaranteeing the rights of vulnerable prisoners, such as juveniles, women, mentally-ill, among others, to ensure that the human rights violations of East Timor's past are never again repeated.

This document was initially prepared in September 2001 by the Human Rights Unit of the United Nations Transitional Authority in East Timor (UNTAET) in consultation with the Ministry for Justice for the benefit of staff working in the Prison Service of East Timor. The content is based on a training manual prepared by the International Centre for Prison Studies on behalf of the Office of the High Commissioner for Human Rights (Geneva). Requisite modifications have been made to the original text to adapt it for use by the Prison Service in East Timor. A manual for trainers accompanies this publication and is available from the Human Rights Unit of the United Nations Mission of Support in East Timor (UNMISET) in Dili, East Timor.

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HUMAN RIGHTS IN PRISON

What are human rights?

Human rights are the *minimum* civil, cultural, economic, political and social *needs* that every human being has a right to demand/enjoy because they are human.

It is a *moral* recognition of the dignity of all humans, the equality of all humans and the need to give all humans an opportunity to develop fully.

It is a *legal* recognition of the obligation of governments to provide and guarantee these rights to the humans under their control.

Human rights are *inherent, universal, inalienable* and *indivisible*.

Where are human rights in detention written down or found?

INTERNATIONAL LAW (some examples):

Treaty/Convention:

- International Covenant on Civil & Political Rights (1976)
- UN Convention against Torture and other cruel, inhuman or degrading treatment or punishment (1984)

Declarations/UN General Assembly Resolutions, Rules, Principles:

- Universal Declaration of Human Rights (1948)
- Standard Minimum Rules for the Treatment of Prisoners (1977)
- Body of Principles for the Protection of all Persons under any form of Detention or Imprisonment (1988)
- Basic Principles for the Treatment of Prisoners (1990)
- The Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (1982)
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990)

- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (1985)

NATIONAL LAW (some examples):

- The Constitution of the Democratic Republic of East Timor
- UNTAET Regulation 2001/23 and 2001/25 on the Establishment of a Prison Service in East Timor (September 2001).
- Other national legislation

THE HUMAN RIGHTS OF PERSONS IN DETENTION

Men and women who are in prison retain all their rights as human beings except those that have been lost as a specific consequence of the deprivation of liberty.

Examples of human rights of persons in detention

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

Examples of rights limited by imprisonment

- the right to certain personal liberties
- the right to privacy
- the right to freedom of movement
- the right to freedom of expression

- the right to freedom of assembly

The important issue is whether and to what extent any further limitation of human rights is a necessary and justifiable consequence of the deprivation of liberty?

FOR CONVICTED PRISONERS:

IMPRISONMENT AS PUNISHMENT BUT NOT FOR PUNISHMENT

The circumstances of imprisonment should not be used as additional punishment. Any adverse effects of imprisonment must be minimized. Although life in prison can never be normal, conditions in prison should be as close to normal life as possible, apart from the loss of liberty.

*FOR PRISONERS **NOT** YET CONVICTED:*

Prisoners awaiting trial are not in prison either as punishment or for punishment. **They are in prison as a precaution** and they are **presumed innocent** until proven guilty. For them, too, life in prison should be made as close to normal life as possible.

STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (1977)

SOME FUNDAMENTAL PRINCIPLES:

- Prisons shall be well-ordered communities, i.e. they shall be places where there is no danger to life, health and personal integrity and where fundamental human rights are guaranteed;
- Prisons shall be places in which no discrimination is shown in the treatment of prisoners. Differential treatment which recognizes different beliefs, needs, special situation or special disadvantaging status (for example, prisoners who are juveniles, women, mentally-ill, foreign, or members of a religious minority, among others) is not discrimination;
- When a court sentences an offender to imprisonment, it imposes a punishment which is inherently extremely afflictive. Prison conditions shall not seek to aggravate this inherent affliction;
- Prison activities shall focus as much as possible on helping prisoners to resettle after the prison sentence has been served. Prison rules and regimes should be conducive to adjustment and integration into normal community life.

PRINCIPLES OF MAINTAINING HUMAN DIGNITY

- All persons deprived of their liberty shall be treated at all times with humanity and with respect for the inherent dignity of the human person.
- In depriving a person of his/her liberty the State takes from them the opportunity to provide for their own basic needs and therefore the State (and the Prison Service of East Timor) has a specific responsibility to adequately provide for their needs.

PRINCIPLES OF MAINTAINING HUMAN DIGNITY: ADMISSION AND RELEASE

- Persons deprived of their liberty should be held in places, which are officially recognized as places of custody.
- No person shall be admitted into a penal institution without a valid detention warrant issued by a judge.
- A detailed register should be kept of every inmate. The register should contain personal details so as to identify the prisoner, the reason for his/her detention, and the date of admission and release.
- All prisoners shall be provided promptly with information about the regulations, including disciplinary provisions, that apply to them and on their rights and obligations.
- The families, legal representatives and if appropriate, diplomatic missions, of prisoners are to receive full information about the fact of their detention and where they are held.
- All prisoners shall be given a medical examination and offered treatment as soon as possible after admission.
- The personal property of prisoners should be registered upon admission and returned at the time of discharge from the penal institution.
- All information related to an inmate should be kept confidential.

PRINCIPLES OF MAINTAINING HUMAN DIGNITY: ACCOMMODATION

- Accommodation for prisoners shall provide adequate cubic contents of air, floor space, lighting and ventilation to maintain optimum health.
- Where overcrowding exists there will also be a real danger of illness and spread of diseases.

- Care should be taken in the selection of prisoners for shared accommodation in the interests of health, safety and security.

PRINCIPLES OF MAINTAINING HUMAN DIGNITY: HYGIENE

- Maintaining high standards of hygiene and cleanliness in the prison is essential for preventing the spread of disease and general good health of prisoners and prison staff.
- All prisoners shall be provided with facilities to meet the needs of nature in a clean and decent manner with an appropriate degree of privacy. Being able to adequately maintain their own cleanliness and good appearance is essential to human dignity.
- All prisoners should be provided with soap, other toiletries, and clean towels. Female prisoners should have ready access to sanitary supplies for menstruation. Male prisoners should have personal shaving materials.
- Prisoners carrying out work which makes them dirty and those preparing or serving food should be given the opportunity to wash more regularly.

PRINCIPLES OF MAINTAINING HUMAN DIGNITY: CLOTHING AND BEDDING

- All prisoners should be provided with facilities for keeping all clothing and bedding clean and in proper condition.
- Prison clothing should not be degrading or humiliating.

- It is the responsibility of the prison administration to provide individual sleeping facilities for every prisoner according to the general standards of the country.

PRINCIPLES OF MAINTAINING HUMAN DIGNITY: FOOD

- All prisoners shall be provided with adequate and nutritionally balanced food at regular times and access to drinking water whenever required.
- Consideration should be given to the dietary requirements of particular groups of prisoners. These will include those with medical conditions, nursing or pregnant women and juveniles. Some prisoners may require special diets for religious or cultural reasons.
- Whenever possible prisoners should be encouraged to grow their own food. Any excess can be given or sold to the local community where appropriate.

PRINCIPLES OF MAINTAINING HUMAN DIGNITY: EXERCISE

- Many prisoners spend the majority of their days in conditions of close confinement. In these circumstances it is essential that they are given an adequate amount of time each day in the open and they are allowed to do physical exercise.
- All prisoners should have at least one hour's daily exercise in the open air if the weather permits.

- Physical exercise is particularly important for younger prisoners. Young prisoners may need more organized exercise (i.e. competitive games) to channel their energy into constructive activity.
- The physical exercise of female inmates should be organized at a different time and/or location than that of male inmates.

PRINCIPLES OF MAINTAINING HUMAN DIGNITY: HEALTH RIGHTS OF PRISONERS

An individual's state of health affects how they behave and their relations with each other. When prisoners are healthy they cope better with imprisonment. When prison staff are healthy they work better. Maintaining good health is in the interest of all.

- Health care conditions in prisons affect public health.
Communicable diseases can be easily transmitted among prisoners to prison officers and prisoners' visitors who in turn may infect the community at large.
- Prisoners have the right to the highest attainable standard of physical and mental health.
- Decisions about a prisoner's health should be taken only on medical grounds and by medically qualified people.
- Prisoners should be transferred to a hospital or other specialized facility as appropriate.
- Medical staff should never take part in any forced treatment of prisoners. This prohibition extends to the treatment of prisoners on a hunger strike.

PRINCIPLES OF MAINTAINING DIGNITY: THE RIGHT TO PARTICIPATE IN EDUCATIONAL & CULTURAL ACTIVITIES

- Education and cultural activities should be encouraged and aimed at the full development of the human personality, particularly when education programmes are as far as possible suited to the individual's needs, effectively contributing to the person's successful rehabilitation.
- Education shall be compulsory for young or illiterate prisoners.
- The outside community should be involved as much as possible in education and cultural activities.
- Prisoners should have access to books, newspapers, music, drama and art.

PRINCIPLES OF MAINTAINING HUMAN DIGNITY: THE RIGHT TO FREEDOM OF RELIGIOUS BELIEF

- All prisoners have the right to practice their religion.
- All prisoners have the right to have access to qualified representatives of any religion.
- All prisoners have the right to not have a religion.

PRINCIPLES OF MAINTAINING HUMAN DIGNITY: THE RIGHT TO ACCESS TO THE OUTSIDE WORLD

Imprisonment will often break up family relationships and break down links with the community. This affects prisoners' eventual re-integration into the community when they are released from prison. It is in everyone's interest to help maintain these contacts with the family and community. Prisoners will be able to take responsibility for their personal affairs and prepare for release; prisoners' families, particularly prisoners' children, will be able to keep in touch; prison officers will have to deal with less anxious prisoners; and the community will be less likely to suffer further crimes if the prisoners retain family links and are more easily integrated upon release.

- All prisoners shall have the right to communicate with the outside world especially with their families. Contact with the family is a right not a privilege to be earned. It cannot be removed for disciplinary reasons.
- For security reasons it may sometimes be necessary to limit the conditions of visits, such as the number of visitors. However, no one shall be subjected to arbitrary interference with his or her privacy, family, or correspondence.
- A prisoner's requests to be held in a prison near his home shall be granted as far as possible.
- Visits by legal counsel should be unlimited and confidential.

PRINCIPLES OF MAINTAINING HUMAN DIGNITY: THE REQUIREMENT TO WORK

- If prisoners are fully and productively engaged in constructive activities the prison is likely to be safer and more secure. Prison authorities should make arrangements to set up institutional industries and farms.
- All sentenced prisoners who are medically fit shall be required to work. As far as possible, this work should give them skills so that they can earn an honest living after their release. Work in prisons shall not be of an afflictive nature.

- Prisoners should be paid for the work they do and allowed to spend the money as they wish.
- Vocational training, particularly for younger prisoners, should be provided.
- National health and safety standards apply to the prison as to the community at large.

PRINCIPLES OF MAINTAINING HUMAN DIGNITY: REHABILITATION PROGRAMMES AND PREPARATION FOR RELEASE

- The majority of prisoners will leave prison after they have completed their sentences. They should be prepared for the return to society. This will make it less likely that they will commit further crimes.
- Preparation for release must begin once the Courts have handed down the prison sentence.
- Prison officials should coordinate with government social services, non-governmental organizations and/or religious groups to assist in the preparation of prisoners for release.

PRISON AS A SAFE & SECURE PLACE

- Prison officers have a responsibility to protect the public by making sure that prisoners do not escape from lawful custody ordered by the Court. This is appropriate **SECURITY**.
- Sometimes prison officers can impose control over prisoners by coercive means. But this should **NOT** be the norm: **GOOD ORDER** involves much more than control. It presumes the existence of a set of rules and regulations which govern the daily life of every person operating inside the prison (staff, prisoners, visitors) so as to assist them to play their role

without fear for their personal safety. Staff should demonstrate that they carry out their duties decently and humanely within the context of the law.

- From time to time some prisoners will break the rules and regulations of the prison. When this happens there has to be a clearly laid down legal procedure to **DISCIPLINE** and **PUNISH** prisoners.

PRISON AS A SAFE & SECURE PLACE: SECURITY

- Conditions of security imposed on any individual in prison should be **ONLY** those which are necessary to ensure that any prisoner who presents a threat to public safety does not escape.

The use of force by prison officers shall be as a last resort and shall be used only when strictly necessary for the maintenance of order, security and safety of personnel and other inmates. The use of force shall be proportionate to the threat or action of an individual or a group. Force may be used in self-defence or in the defence of others.

- The concept of security involves much more than arranging physical barriers to escape. Security also depends on an alert staff who interact with prisoners, who have awareness of what is going on in the prison and who make sure that prisoners are kept active in a positive way. This is called **DYNAMIC SECURITY**. It is about maintaining positive relationships with prisoners, being observant of any changes in their temperament or atmosphere in the prison and being able to prevent problems before they happen.
- Chains and irons shall be not be used as restraints.
- Restraints, such as handcuffs, may only be used:
 - as a precaution against escape during transfer (they must be removed when the inmate appears before a judge);
 - on medical grounds under the direction of a doctor;

- and for no longer than strictly necessary.
- Every prisoner should be assessed with respect to the degree of threat to public safety if they were to escape and the likelihood that they might escape. High risk prisoners should be separated from low risk prisoners and accommodated in high security institutions.

PRISON AS A SAFE & SECURE PLACE: GOOD ORDER AND CONTROL

- Discipline and order shall be maintained with firmness, but with no more restrictions than necessary for safe custody and a well-ordered community life.
- No prisoners shall be employed in any disciplinary capacity. Prisoners should never be used to replace prison officers when there are staff shortages.
- If prisoners are kept occupied and are given the opportunity to use their time positively they will respect reasonable and justifiable rules necessary to ensure that good order is maintained.
- Coercive control is not sufficient to ensure good order. Cooperation and good relations between staff and prisoners contribute to security, so active and positive regimes are important means of maintaining good order in a prison.
- The vast majority of prisoners will respond positively to being treated in a decent and human manner. There must be a balance between positive encouragement and discipline. Implement firmness but fairness in relations with prisoners.

- It is possible to have an environment which is relaxed, where prisoners do not live in fear, while at the same time ensuring that security and good order are not sacrificed.

PRISON AS A SAFE & SECURE PLACE: DISCIPLINE & PUNISHMENT

- From time to time some prisoners will refuse to follow the lawful rules of the prison. When this happens there has to be a **formal disciplinary procedure** to establish guilt and to impose appropriate punishment. This procedure will have been officially established in a regulation or directive of the Prison Service. To prevent breaches of discipline it is important to communicate information about rules and procedures. Inmates must be informed, in a language he/she understands, of the rules governing the prison, and of the disciplinary offences and punishments.
- A **MINOR OFFENCE** against prison discipline may include the following:
 - disobeying any lawful order of prison staff;
 - acting in an abusive or indecent manner, whether by language or conduct;
 - maliciously threatening another person;
 - leaving a cell without permission;
 - engaging in gambling;
 - trafficking in unauthorized articles or substances.

Punishments for minor offences may involve:

- a warning or reprimand;
- loss of privileges;
- performance of extra duties.
- A **SERIOUS OFFENCE** against prison discipline may include the following:
 - willfully destroying and damaging prison or other property;
 - assaulting other persons, including inmates;
 - escaping from prison;
 - possessing substances/articles that are not authorized;
 - taking or using without authorization alcohol or drugs or other

- unauthorized substances;
- being in possession of a weapon;
- taking property from other persons;
- mutiny or inciting inmates to mutiny;
- committing acts contrary to good order and security of the prison.

Punishments for serious offences may involve:

- a warning or reprimand;
 - loss of privileges;
 - performance of extra duties;
 - confinement in the inmates' sleeping quarters for a maximum of seven days;
 - restitution;
 - confiscation of property associated with the offence.
- A formal disciplinary procedure shall be officially established to regulate the application of a punishment as consequence of a minor or serious offence.
 - Every prisoner shall have the opportunity to appeal against a disciplinary decision of the prison manager to a higher authorities, such as the prison director or a judge.
 - Punishment should be used as a measure of **last resort** by prison officers to maintain discipline inside a penal institution. The punishment has to be **proportionate** to the offence committed.
 - Instruments of restraint, such as handcuffs, chain irons and straitjackets shall never be applied as a punishment.
 - All cruel, inhuman or degrading punishments are completely **PROHIBITED**, including corporal punishment or placing the prisoner in a dark cell. It can be considered cruel, inhuman, degrading a punishment which is:
 - disproportionate to the act committed or to the objective of ensuring discipline and an ordered community life;
 - unreasonable or
 - unnecessary or

- arbitrary or
- produces undue pain and/or suffering.
- Prison staff should **NEVER** exercise any form of **INFORMAL PUNISHMENT**.

PRISONS AS SAFE AND SECURE PLACES: TORTURE & ILL-TREATMENT ARE ALWAYS PROHIBITED

- No one shall be subjected to torture and cruel, inhuman or degrading treatment or punishment. There are **no** exceptions.
- Torture is defined as any act by which severe physical or mental pain or suffering is intentionally inflicted on a person, other than that which is inherent in or incidental to lawful sanctions.
- Orders from a superior officer may **not** be invoked as a justification for torture.
- Allegations of torture, ill treatment or unjustified violence on prisoners by prison officers should be investigated by the police promptly and impartially and those responsible prosecuted in accordance to the law. As a law enforcement officials, prison officers have a special responsibility to ensure the safety and security of prisoners at all times.
- All deaths in custody of prisoners shall be properly investigated.

PRISONS AS SAFE AND SECURE PLACES: THE GENERAL RIGHT TO MAKE COMPLAINTS

Anyone whose rights and freedoms have been violated has the right to an effective remedy determined by competent authorities/court. Prisoners' complaints may range from minor complaints about poor prison practice to more serious allegations about criminal behaviour and human rights violations.

- Every prisoner shall have the effective right to make a complaint regarding his/her treatment, and unless the complaint is evidently frivolous, to have it dealt with promptly and, if requested, confidentially. If necessary, the complaint may be lodged on behalf of the prisoner by the legal counsel or family.
- Prisons must establish a set of procedures which allow prisoners to make request or complaints or to air a grievance without fear of reprisal. Any system of complaints and redress for grievances must be based on the principles of fairness and justice. The aim is to develop a culture based on prevention rather than cure - which seeks to avoid requests becoming complaints and to prevent complaints developing into deep-seated grievances.

- Whenever a complaint of abuse is made against a prison officer, the prison authorities shall ensure that the officer is removed from any position which will bring him/her into contact with the prisoner pending the outcome of the investigation.
- Prison authorities should maintain comprehensive records of all complaints.
- Prisoners should have regular access to senior prison managers in their institution.

PRISONS AS SAFE AND SECURE PLACES: PRINCIPLES GOVERNING PRISON INSPECTIONS

- Prisons shall be inspected regularly by qualified and experienced inspectors from a competent authority separate from the prison administration;
- Independent inspectors should carry out unannounced inspections at any time and have access to all areas of the prisons. They should also have the right to carry out inspections following any serious incident or riot.
- Every prisoner shall have the right to communicate freely and confidentially with inspectors, subject only to the demands of good order and discipline in the institution.
- The contents of the reports of outside inspectors should be made public. Penal institutions which are reasonably open to public scrutiny provide the best safeguard for human rights in prisons. If human rights are respected inside prisons the authorities have nothing to fear from public criticism.

SPECIAL CATEGORIES OF PRISONERS

The classification and separation of individuals by legal status, age, gender, medical condition and nationality reflects a recognition of the potential vulnerability of different groups within the prisoner population and the need for their protection. Convicted offenders and pre-trial detainees, juveniles

and adults, women, mentally ill, and foreign inmates have different histories and needs that require specific care.

SPECIAL CATEGORIES OF PRISONERS: PRE-TRIAL PRISONERS

- Everyone charged with a penal offence has the right to be presumed innocent until proved guilty.
- A detained person shall have the right to defend him or herself or to be legally represented.
- All detained persons shall have access to a lawyer or other legal representative and adequate opportunity to communicate with that representative in confidence.
- Anyone who is arrested has the right to trial within a reasonable time, or to release.
- **Detention** in custody pending trial shall be **the exception** rather than the rule. A pre-trial prisoner shall have the right to appeal to a judicial authority against his or her detention.
- Accused persons shall, save in exceptional circumstances, be separated from convicted persons and shall be subject to separate treatment. Special treatment means they are not required to perform any work except at their own request, have the right to wear personal clothing and regularly receive food from outside the prison, among other exceptions.
- The records of pre-trial prisoners who have been acquitted of the charges against them should be destroyed upon release.

SPECIAL CATEGORIES OF PRISONERS: JUVENILES

Imprisonment is inherently afflictive. Imprisonment for juveniles should be avoided whenever possible because they are in their formative years, easily impressionable and in prison they may be exposed to the criminal identity.

Juveniles' capacity to understand their actions and its consequences are deemed to be less than an adult's. Children locked up are considered to be vulnerable to abuse and unable to protect themselves. Prison regimes should emphasize the welfare of the juvenile and have a rehabilitative rather than a punitive approach.

- A juvenile is a person under 18 years of age.
 - The detention of juveniles should be as a **last resort**.
 - Juveniles who are detained shall be treated in a manner which promotes their sense of dignity and worth, facilitates their reintegration into society and takes into account their special needs as children.
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- Juveniles shall be separated from adults unless it is not in the best interests of the child.
 - Special efforts shall be made to allow juveniles to receive visits and correspondence from family members.
 - Juveniles have the right to education and vocational training.
 - Weapons shall not be carried in penal institutions holding juveniles.
 - Parents are to be notified of the admission, transfer, release, sickness, injury or death of a juvenile.
 - Records of juvenile offenders shall be kept strictly confidential and criminal records must be deleted.

SPECIAL CATEGORIES OF PRISONERS: WOMEN

As prisons tend to be a male-dominated world, special efforts must be made by the authorities to ensure the rights of women inmates are guaranteed. In addition, there are specific issues related to the detention of women. The risk of sexual violence increases especially when the prison is under the direct authority of male prison officers or where women are detained in the proximity of male prisoners. Furthermore, the authorities must take into consideration women's role as mothers and caregivers, thus very young children may be allowed to remain in prison with their mothers because it is in the best interest of the children to do so.

- Women are entitled to the equal enjoyment and protection of all their human rights without discrimination.
 - Women prisoners should have access to the same rehabilitation and vocational facilities and programmes available for male inmates.
 - The specific health care needs of women prisoners should be recognized by the prison authorities and addressed accordingly.
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- Women prisoners shall be protected from all forms of violence or exploitation.
 - Women prisoners shall be detained separately from male prisoners and supervised or searched **exclusively** by female officers.
 - Pregnant women and nursing mothers who are in prison shall be provided with special facilities, which they need for their condition. It is recommended that babies be born in a hospital outside the prison.
 - The best interests of the child should always be taken into account when making the decision whether to admit to a penal institution a child with

its mother. The child's basic needs must be adequately provided for and his/her treatment must reflect the fact that the child is not a prisoner.

SPECIAL CATEGORIES OF PRISONERS: MENTALLY-ILL PRISONERS

In East Timor there are scarce resources currently available for the treatment of the mentally-ill leading to the detention of individuals who are deemed to be a danger to themselves and society by judicial officials. Mentally ill prisoners require specialized health care and caring attention from prison staff. Mentally ill prisoners' difficult behaviour can be disruptive and may become a security concern for the prisoner himself/herself as well as others.

- Seriously mentally ill or insane prisoners should not be detained in prison but in specialized institutions under medical management.
- Mentally ill prisoners have the same right as others prisoners to the highest attainable standard of healthcare. Services for psychiatric diagnosis and, if appropriate, treatment, shall be available at every prison.
- Symptoms of mental illness may be exacerbated by imprisonment and become a chronic condition. It is imperative that prisoners displaying symptoms of mental illness be brought to the attention of medical personnel for treatment immediately.
- Only qualified medical personnel should carry out diagnosis and treatment of mentally ill prisoners.
- Mentally ill prisoners should be accommodated separately from other prisoners following medical advice.

SPECIAL CATEGORIES OF PRISONERS: FOREIGN PRISONERS

Foreign prisoners are particularly vulnerable in an alien country because they may not speak the national language, understand the law or culture, eat local food and find themselves away from their family and community of

origin. To alleviate the afflictive nature of imprisonment may require extra efforts and creativity by prison authorities to satisfy as much as possible the different needs of foreign prisoners.

- Upon the prisoner's request, the diplomatic missions of foreign prisoners are to receive full information about the fact of their detention and where they are held from prison or government authorities.
- Foreign prisoners shall be allowed to freely communicate with their diplomatic representatives;
- Consideration should be given to the dietary, religious or cultural requirements of foreign prisoners who may be different from that of national prisoners.
- It may be advisable to accommodate foreign prisoners separately from other prisoners, particularly if following a prison regime which reflects their special needs and is different from that of other prisoners.

THE ADMINISTRATION OF PRISONS AND PRISON STAFF

- Personnel should be carefully selected for their integrity, humanity, professional capacity and personal suitability as well as adequate standard of education. There shall be no discrimination in the selection process on the grounds of sex, race, colour, language, religion, and political or other opinion, national or social origin, property, birth or other status.
- Personnel shall be appointed full-time prison officers, with salaries adequate to attract suitable men and women, as well as favourable employment benefits and conditions of service.
- Sufficient numbers of women shall be recruited to ensure fair community representation and the protection of the rights of women prisoners.
- Personnel shall conduct themselves in a manner which commands the respect of prisoners. The Prison Service shall implement a code of

conduct for prison personnel that defines such issues as dress standards, work practices, and breaches of conduct.

- Prison personnel shall respect the confidentiality of information in their possession unless the performance of duty or the needs of justice strictly require otherwise.
- Managerial personnel should reside in the vicinity of the prison.

REVIEW QUESTIONS

1. Late one evening a prisoner is brought to the prison by police. The police tell prison staff that the man has just been sentenced to six months in prison. In their haste to reach the prison in time they have forgotten to bring the warrant of detention. The prisoner says that he should not be in custody. As Reception Officer what will you do?
2. The police deliver to the prison a detainee with signs of bruising. The prisoner complains to the Reception Officer that the police have beaten him. When the Reception Officer questions the police officers who delivered the prisoner, they claim that the prisoners already had the bruises when they picked him up from the police station and that he probably was injured when he resisted arrest. What action should the Reception Officer take?
3. Which are the consequences of an overcrowded prison? Which practical steps can prison personnel take if a prison is overcrowded? Comment about the obligation of the Prison Manager to bring levels of overcrowding to the attention of the relevant authorities.
4. In the prison where you are working there is a shortage of toothpaste. What should prison staff do? Is it the responsibility of prison management to provide toiletries at all times?
5. What are the arguments for requiring prisoners to wear prison uniforms? When might they wear their own clothes?
6. A group of foreign prisoners are admitted to the prison. They say that their religion will not permit them to eat the food which is prepared in the prison kitchen. Bearing in mind international human rights standards, what is to be done?
7. You are working in a mixed (male and female) prison. The male inmates organize volleyball teams and games. Two female juveniles want to participate, given that the number of female inmates is too low to organize any competitive physical activity for them. How do you manage this situation?

8. Why should detainees receive the highest standards of healthcare available when not all East Timorese have access to healthcare?
9. In the course of a medical examination, a nurse finds marks on a prisoner's body which are consistent with being beaten. The prisoner alleges that he has been beaten by a prison officer but says that he does not wish to make any complaint for fear of reprisal. What should the nurse do?
10. What practical steps can be taken to integrate education in prisons with the education system in the local community?
11. What special arrangements need to be made for prisoners who cannot read or write? Why is it important for inmates to be able to read and write?
12. A visiting representative of a particular religion begins to encourage the prisoners to follow that religion and to question prison rules and regulations at every opportunity. Prison staff find these prisoners increasingly difficult to manage. What should the Prison Manager do?
13. Human rights standards confirm the right to privacy. On what grounds can censoring prisoners' mail be justified? Can correspondence between prisoners and their legal representative be censored?
14. Prisoners complain that they are only allowed three visitors at any given visit and that their relatives have traveled from afar to come and visit them and are unable to. How do you respond?
15. Sometimes people who are in prison have had no experience of regular employment. They do not think that they should be required to work while they are in prison. How can they be motivated to work?
16. There is a high level of unemployment in the local community. People ask why prisoners can be given work when so many law-abiding people cannot find work. What is the answer?
17. A former militia member is nearing completion of a ten-year sentence for crimes committed in 1999. He will be released shortly and wants to

return to his family in the *aldeia* where he committed his crimes. What steps need to be taken to ensure that his re-integration is successful?

18. What government services and community organizations can the Prison Service call upon in East Timor to assist in the preparation for release and re-integration into society of prisoners?
19. One element of security is provided by physical means such as walls, fences, bars and locked doors. Another element, called “dynamic security”, comes from staff moving among prisoners, getting to know them and assessing risks. How do these two elements complement each other?
20. You are the Prison Manager and receive information that a prisoner has imposed his personality and wishes on some members of the prison staff, up to the point that one prison officer has been granting this prisoner special favours (better food, more soap, cigarettes). What do you do?
21. In the coercive environment of the prison it might be impossible to eliminate harassment and bullying. What steps might be taken to reduce these and to make prisons safe places for prisoners and for staff?
22. When new inmates are admitted they are provided with a written explanation of the rules governing the prison and the disciplinary provisions for breaking those rules. An illiterate inmate is admitted to the prison. What do you do to make sure that he receives and understands the necessary information?
23. How can prisoners who complain to outside inspectors about ill-treatment by prison officers be protected from retaliation or discrimination?
24. Why does international human rights law not accept superior orders as a justification for human rights violations?
25. A prisoner makes a complaint to the Prison Manager that a member of staff has been illegally bringing goods into the prison and selling them to prisoners. The complaint is investigated by a senior member of staff, who can find no evidence. The prisoner wishes to take his complaint further.

According to the international human rights standards, what should he be able to do?

26. A prison inspector writes a report on a prison with numerous criticisms, some of which, such as overcrowding, are outside the control of the Prison Manager. The media publish very negative accounts about the prison. How is the Prison Manager to maintain staff morale? What further steps might the director take?
27. What are the questions posed by introducing women prison officers to male prisons? How does this situation differ from using male prison officers in prisons for women?
28. You receive information that one of the prison officers has had sexual relations with a female inmate. Both are adults, the relations appear to be consensual as neither individual has complained. As Prison Manager what are you going to do?
29. A child arrives in prison and claims he is below the minimum age for imprisonment, but he has no birth certificate. What should be done?
30. What methods of discipline might be used with very unruly children in prison with histories of repeated serious offending? How might they be encouraged to undertake education?
31. There are no psychiatrists in East Timor to treat the mentally-ill. There are a number of disturbed detainees in the prison. How can the Prison Manager ensure that they receive appropriate medical care?
32. A prisoner has been held in pre-trial detention for 18 months. No date has been set for his trial. The offence with which he is charged carries a maximum sentence of six months. What does the Prison Manager do?
33. Why is it important that pre-trial prisoners should be separated from convicted prisoners?
34. A Sri Lankan detainee is admitted to the prison. He speaks only Tamil and a limited amount of English. As Reception Officer, how are you going to explain to him the prison rules?

35. You are responsible for recruiting new prison officers. What criteria would you use? (i.e. what qualities make for a good prison officer?).
36. A fellow prison officer has been accused of beating an inmate and police have launched an investigation. The prison officer is called to appear before an Investigating Judge. Staff members are upset because they incorrectly believe that the prison officer has been arrested. Prison staff refuse to work and demand a meeting with the Minister of Justice. As Prison Manager how are you going to address this issue?
37. A fellow prison officer arrives for his work shift drunk. He has already received one verbal warning for similar behavior in the past from the Prison Manager. A second warning would be in writing and placed in the individual's personal file. A third warning may lead to dismissal. What do you do?