



association pour la prévention de la torture
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Institutional culture in detention: a framework for preventive monitoring



A Detention Monitoring Tool resource

Second edition

Incorporates the 2015 revised Standard Minimum Rules
for the Treatment of Prisoners (the Nelson Mandela Rules)

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a framework for preventive monitoring**

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We promote alternatives to prison which support the rehabilitation of offenders, and promote the right of detainees to fair and humane treatment. We campaign for the prevention of torture and the abolition of the death penalty, and we work to ensure just and appropriate responses to children and women who come into contact with the law.

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Introduction

This paper looks at positive culture change in places of deprivation of liberty from a human rights perspective.¹ People deprived of their liberty are particularly vulnerable to abuse, including torture and other ill-treatment. Bodies that monitor places of detention play a significant role in preventing torture, by identifying root causes and seeking to reduce the risk of torture occurring. The culture in places of detention is one important systemic factor to be considered in torture prevention efforts.

Culture is important because it has a direct bearing on the behaviour of people within a place of detention: staff and detainees. The way culture develops can have a positive or negative impact on the life of people in detention. In particular, experience suggests that when certain attitudes and values are adopted as cultural norms, they can lead to behaviour infringing on the dignity and rights of detainees. These represent cultural risk factors for torture and ill-treatment.

By understanding how cultures are formed and perpetuated, it is possible to better identify these risk factors and seek to mitigate them through positive culture change. The added value of this approach is that it goes beyond focusing on acts of torture or strict compliance with legal standards to examine the underlying attitudes that motivate behaviour. Ultimately, it is by changing behaviour that one can improve the everyday life experiences of people in detention and hence reduce the risks of being subjected to torture.

At the same time, there are challenges to working on culture in places of detention and the issue is often overlooked by human rights actors. In practice, cultures can seem intangible and difficult to define. Seeking to bring about human rights culture change is a complex and long-term task. Nevertheless, it is possible to draw on existing research and experience to identify some key processes and factors that can contribute to this change.

Monitoring bodies are well placed to work on positive culture change in places of detention. They have the access to the place of detention, staff and detainees, which is necessary for identifying shared attitudes and values within these places. Through their work and experience, they often develop an understanding of informal structures, systems and ‘ways of doing things’ which would be difficult for outsiders to discern.

Whether monitoring bodies choose to engage directly on culture change in places of detention will depend on a variety of factors. These include the need for culture change (presence of cultural risk factors for torture), as well as their own capacity and the nature of engagement they have with authorities. However, looking at culture can provide an important added perspective and serve to inform their broader work.

The paper is primarily aimed at bodies that monitor places of detention and aims to:

- Raise awareness among monitoring bodies of the role of culture in places of detention in the prevention of torture and ill-treatment
- Provide a framework for understanding culture in places of detention (section I)
- Outline some common cultural attitudes that can represent risk factors for torture and ill-treatment (section II)
- Provide some examples of processes and factors that contribute to positive culture change in places of detention (section III)

1. The paper was developed as part of the Association for the Prevention of Torture (APT) and Penal Reform International (PRI) project ‘Evaluative tool for measuring the effectiveness of NPMs’. It has been adapted from: Jem Stevens, *Changing Cultures in Closed Environments: What works? Law in Context*, Vol. 31, 2014, p228-260.

Concepts: understanding culture in places of deprivation of liberty

1. What are places of deprivation of liberty?

They are places people cannot leave of their own free will because of an order or acquiescence by a public authority.² These include places such as prisons, police custody facilities, immigration detention centres, mental health institutions and social care homes. They also include situations of arrest and transport for the transfer of detainees.³ There are many different kinds of organisations responsible for places of deprivation of liberty (hereinafter ‘places of detention’) and it is difficult to generalise among them. However, when considering their cultures, it is useful to note that in general:

- Detaining organisations are primarily concerned with people (detainees and staff). The relationship between these two groups plays a central role in determining the culture of the organisation.⁴
- This relationship is unequal, with staff having power and detainees depending on them for their basic everyday needs and rights.
- Places of detention are shut off from the outside world and cultures within them can develop unchecked.
- They can come under the responsibility of different ministries, for example defence, interior, justice and health, which has a significant impact on the culture within the detaining organisation.
- They can be managed by a variety of types of organisation – public and private – but these tend to be hierarchical and/or bureaucratic with a clear organisational structure and chain of command.
- They operate within a wider institutional and regulatory framework which governs the deprivation of liberty.

2. What is ‘culture’ in places of detention?

‘Culture in places of detention’ means *the shared assumptions and values of staff and detainees, which guide behaviour within the detaining organisation*. These are the shared attitudes about what is important within the detaining organisation, how problems are solved and what type of behavior is acceptable. Staff working in places of detention are socialised into the culture of the organisation and it can be difficult for them to step back and assess it objectively or break out of it. A shared culture among detainees is more likely to develop in ‘total institutions’ such as prisons or mental health hospitals, where people are ‘cut off from wider society for an appreciable period of time’ and ‘together lead an enclosed and formally administered round of life’.⁵ What is particularly interesting for monitoring bodies is the fact that ‘a strong organizational culture literally controls organizational behaviour’.⁶

3. How are cultures in places of detention formed?

Cultures in places of detention normally develop gradually over time through a complex mix of factors internal and external to the organisation. These include:

- **The paradigm:** the idea of what the organisation does and why. This can be set by legislation and public policies as well as by management in explicit policies. However, just as important are unwritten rules and informal endorsement by managers which motivate the behaviour of staff. The latter can include ‘promotion and subtle social approval, ranging from invites to lunch or for drinks, to the ‘nudge-nudge, wink-wink’ forms of body language’.⁷

2. Article 4 of the Optional Protocol to the UN Convention against Torture (OPCAT). See APT, *Guide to the Establishment and Designation of NPMs*, 2006, p18.

3. APT/IIIDH, *The OPCAT: Implementation Manual*, 2010, pp48-55.

4. A Coyle, *Change Management in Prisons* (upcoming chapter in *Understanding Prison Staff* received from the author) p241.

5. E Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*, Anchor Books, 1961, pxiii.

6. J M Shafritz and J S Ott, *Classics of Organizational Theory*, Brooks/Cole, 3rd ed, 1992, as quoted in Joan M. Bedore, *Prisons as Organizational Cultures: A Literature Review of a Vastly Unexplored Organizational Communication Setting*, 1994.

7. C Meyers, *Institutional Culture and Individual Behavior: Creating an Ethical Environment*, 2006 <www.csub.edu/~cmeyers/316assign/organizational.doc> p5.

The ministry in charge of a place of detention will play a key role in determining its paradigm. Historically prisons in many countries were run by the Ministry of Defence, whose purpose is to protect the country from enemies of the state, and the Ministry of the Interior, responsible for policing and internal security. This supported the understanding that the purpose of prisons was to suppress political opposition or for the investigation of crime.⁸ Furthermore, the military culture of these ministries was commonly reflected in the structure, hierarchy, training programmes, employment conditions, mandate and self-image of staff in prisons under their responsibility. The civilian control⁹ of the Ministry of Justice is therefore considered to be more compatible with the rehabilitative aim of imprisonment and the need to ensure human rights of detainees.

- **The people:** the attitudes and values that staff bring with them from their communities, backgrounds and experiences, as well as those they develop through their interactions during their work and with detainees.

Institutional racism in the Metropolitan Police Service (MPS), London.

In 1999, an independent inquiry found that the MPS was institutionally racist. Its policies were not racist, but the majority of officers were white and the culture was therefore one of 'white values and white beliefs'. Officers tended to interact with black people only in confrontational situations and thus formed negative stereotypes about this community. These became 'rooted in the widely held attitudes, values and beliefs' of the organisation through the canteen culture: the small talk between officers on the job. Racism thus became a norm of the occupational culture, which was 'all-powerful in shaping officers' views of a particular community'. This institutional racism also reflected racism in wider British society.

Stephen Lawrence Inquiry, Report of an Inquiry by Sir William Macpherson of Cluny, 1999, chapter 6.

- **Broader societal attitudes:** Although places of detention seem completely cut off from the outside world, in reality they do not exist in a vacuum. Cultures within them are influenced by broader societal attitudes, including public opinion, media narratives and dominant beliefs in the wider institutional framework in which the deprivation of liberty takes

place. For example, the levels of violence in prisons in many Latin American countries may be a reflection of the prevalence of violence in the societies in which they are located. In some contexts, police are expected to employ a certain level of violence towards criminal suspects and this is considered normal, both by the public and other criminal justice institutions. In order to understand the root of cultures in places of detention, monitoring bodies may therefore need to look outside the detaining organisation itself.¹⁰

People are central to the cultures formed in places of detention. But cultures also endure beyond individuals who come and go. They are perpetuated through symbols, stories, rituals and language, which link the organisation with its history and send a message about what is important.¹¹

4. Deciphering culture within places of detention

There are different levels of cultural attributes within organisations, some of which are readily observable and others which are less tangible.¹² There may therefore be incongruence between outwardly professed values of a place of detention and how its culture develops in reality. Monitoring bodies will need to examine cultural attributes at all levels to fully understand the culture of a detaining organisation. Although these bodies will often have an intuitive feeling for what the culture is, it may be a challenge for them to stand back, assess it objectively and analyse it in a way that can be communicated. This can take time and regular engagement and therefore means that the culture of an institution cannot be assessed within a short visit.

a. Tangible cultural attributes:¹³

- **'Artifacts'**, such as the physical environment, the way people dress, organisational symbols and terminology, for example the difference between a 'police force' and a 'police service', hold meaning. These are visible and may be easy to observe but are normally harder to decipher.
- **Espoused beliefs and values**, for example those found in written policies or articulated by staff. These may be found in documents such as, but not limited to: organisational vision and mission statements, human rights policies, oaths to be sworn by new recruits, codes of conduct and job descriptions, training materials, policy directives, for example on staff promotion, and contracts with private companies on the management of places of detention.

8. International Centre for Prison Studies, *Guidance note 7, Moving Prisons to Civilian Control: Demilitarisation*, 2004.

9. International standards emphasise that in order to secure 'integrity, humanity, professional capacity and personal suitability' in prison, personnel shall 'have civil service status with security of tenure'. (Rule 74(3) of the revised Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules).) The Nelson Mandela Rules were adopted by the UN Commission on Crime Prevention and Criminal Justice on 22 May 2015, endorsed by the Economic and Social Council on 9 September 2015, E/RES/2015/20 and adopted by UN General Assembly Third Committee on 5 November 2015, A/C.3/70/L.3 (At the time of printing this Resolution was pending adoption by the plenary of the UN General Assembly.)

10. Monitoring bodies should be aware, for example, that the situation faced by women in detention is often a reflection of wider prejudicial attitudes and discriminatory practices in society.

11. See G Johnson, K Scholes and R Whittington, *Exploring Corporate Strategy*, Pearson Education Limited, 8th ed, 2008, pp198-199.

12. E Schein, *Organizational Culture and Leadership*, Jossey-Bass, 3rd ed, 2004, pp25-37.

13. These levels of cultural attributes were identified by E Schein, *ibid.*, pp25- 37.

Cultural attributes in a centre for treatment of drug addiction, Brazil.

In its visit to Brazil in 2011, the UN Subcommittee on Prevention of Torture (SPT) found that the aim of the Roberto Medeiros Centre for Treatment of Drug Addiction, Rio de Janeiro, was more punitive than therapeutic. The SPT noted material cultural attributes, such as the fact that the infrastructure and treatment received by patients was that of a prison rather than a hospital. It also observed less manifest factors, including that 'patients had to keep their hands behind their backs when walking through the facility and when talking to staff'.

Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Brazil, 2012 (CAT/OP/BRA/1).

b. Less tangible cultural attributes:

- **Underlying assumptions** which make up the unspoken rules of the organisation about 'why things are done the way they are done'. These may not be expressed on the conscious level and can thus be difficult for outsiders to detect.

Cultural risk factors for torture and other ill-treatment in places of detention

1. Human rights and torture prevention in places of detention

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, ie the right to liberty. States are obliged to respect, protect and fulfil the rights of detainees, and to protect detainees from abuses by others.

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.¹⁴
- The right to be free from torture, cruel, inhuman or degrading treatment or punishment.¹⁵

Ill-treatment can take many forms and can be the result of negligence or organisational failure, as well as intentional abuse.¹⁶ Preventing it therefore requires a holistic approach which looks at the overall quality of life of detainees and aims to reduce risks by creating an environment where all their rights are respected. Other rights very relevant to detention include the rights to life, health, food, water and education, due 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.¹⁷ In addition, a number of important cross-cutting principles, derived from international human rights treaties, can inform and guide a human rights-based approach to policies and action in these places. They include: rule of law, non-discrimination and equality, accountability, empowerment and participation.

At the simplest level, incorporating human rights into closed environments will mean putting human beings at the centre of policies and action. In practice, this means both ensuring safeguards against abuse and fostering a constructive environment through mutual respect between staff and persons deprived of their liberty. This is based on the understanding that people deprived of their liberty, whether they are suspected or convicted criminals, migrants, people with mental health issues, people with drug dependency or any other person are *human beings*. They are already being deprived of their liberty: one of the most serious restrictions of freedom a person can be subjected to. As human beings they deserve to be treated humanely and with respect for their dignity.

2. What aspects of culture in places of detention represent risk factors for torture and other ill-treatment?

Cultures in closed environments need not be negative. But there are certain attitudes and values that can develop within them, which are contrary to human rights principles. Experience suggests that when these are adopted as cultural norms, they can lead to organisational behaviour that infringes on the dignity and rights of detainees. They therefore represent risk factors for abuse, including torture and other ill-treatment. This

14. Article 10, International Covenant on Civil and Political Rights; Principle 1 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; Rule 1 of the revised Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules).

15. Article 7, International Covenant on Civil and Political Rights; the UN Convention against Torture, Principle 6 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; Rule 1 of the revised Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules).

16. APT/IIDH, *The OPCAT: Implementation Manual*, 2010, p15.

17. See APT, *Monitoring Places of Detention: A Practical Guide*, 2004, chapter 4. See also Article 7 and 10, International Covenant for Civil and Political Rights; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; Basic Principles for the Treatment of Prisoners; the United Nations Rules for the Protection of Juveniles Deprived of their Liberty; the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules); and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, among others.

section outlines some common and interrelated sets of such attitudes in places of detention (the list is non-exhaustive).

It is important for monitoring bodies to remain watchful for the presence and development of these cultural risk factors. However, it should also be noted that some involve vested interests or issues of potential individual accountability, for example in the case of corruption, the use of coercion or presence of informal detainee hierarchies. Examining these issues may therefore involve a risk of sanctions for detainees, staff and members of monitoring bodies themselves. Monitoring bodies should therefore proceed on the basis of the principle of 'do no harm'.¹⁸

a. People deprived of their liberty don't deserve rights

This view can manifest in different ways. In general it sees persons deprived of their liberty as lesser beings or as having forfeited their rights through committing wrongs – for example criminal acts or entering the country illegally. A common view is that 'criminals' should be treated badly as part of their punishment. However, this ignores the principle that the punishment is to be limited to the loss of liberty and has the effect of penalising prisoners many times over. In policing, the bending of rules can be justified by dehumanising the criminal suspect or on the grounds that police are working for a higher cause,¹⁹ for example fighting crime or terrorism.

b. Loss of the individual

As work in places of detention becomes routine, detainees can lose their status as individuals in the eyes of staff, becoming more like 'inanimate objects'.²⁰ This can be reflected in blanket policies or automatic responses that interfere with rights but are applied to detainees without individual risk assessments and regardless of their individual situation and needs. For example, when maintaining control becomes an overriding priority in places of detention, staff may routinely physically restrain detainees in response to minor infractions, or use mechanical restraint to punish perceived misbehaviour or for their own convenience rather than as a last resort.²¹ Chemical restraint (the use of medication including anti-psychotic drugs to control behaviour) may be commonly employed although other methods of managing behaviour are available and more appropriate. These represent high risk situations for ill-treatment.

c. Discrimination

Discrimination is common and multi-layered in detention settings and can take place on the basis of ethnicity, nationality, gender, religion, sexual orientation and gender identity among other things. People from vulnerable and marginalised groups tend to be overrepresented among detainee populations, often in contrast with the demographic of staff. Stereotyping and attitudes of superiority and disdain towards minorities, which often reflect attitudes in wider society, can exist both among staff and other detainees. Such attitudes may also develop if staff only interact with minority groups in confrontational situations.

Discriminatory attitudes make people belonging to marginalised groups more vulnerable to physical and verbal abuse. Discrimination also leads to denial of other rights. For example, in Pakistan, reports suggest that members of religious minorities in prison are more likely to be kept in poorer conditions and be subjected to inter-prisoner violence.²²

Discrimination can also be the result of thoughtlessness and the fact that systems in place do not cater to the needs of specific groups. This has the effect of denying their enjoyment of rights on an equal basis with other detainees. In a report on discrimination, the UN Working Group against Arbitrary Detention expressed concern that 'in some countries, the disabled, drug addicts and people suffering from AIDS are detained in places that are incompatible with their state of health and sometimes without treatment'.²³

Discrimination against sexual minorities in detention

According to the UN Special Rapporteur on Torture, 'in detention facilities, there was usually a strict hierarchy, and [...] those at the bottom of the hierarchy, such as gays, lesbians, bisexuals and transgender persons, suffered double or triple discrimination'.

UN High Commissioner for Human Rights, *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity*, 2011 (A/HRC/19/41).

Women deprived of their liberty are exposed to multiple forms of discrimination. Female detainees are particularly vulnerable to sexual abuse, both by staff and other detainees. Detention systems that were designed for men and that are managed by male-dominated organisations often do not cater for women's specific

18. The 'do no harm' principle means that monitors should keep in mind at all times the safety of people who provide them with information. At a minimum, the action or inaction of monitors should not jeopardize the safety of persons deprived of their liberty, their relatives, staff of institutions, monitors themselves, or other individuals with whom they come into contact. See APT, *Detention Monitoring Briefing no. 4: Mitigating the risks of sanctions related to detention monitoring*, 2012; and OHCHR, Professional Training Series No. 7, *Training Manual on Human Rights Monitoring*, 2001, p88.

19. B D Fitch, 'Understanding the Psychology of Police Misconduct', *The Police Chief*, Vol. 78, 2011, pp24-27.

20. E Goffman, 'On the characteristics of Total Institutions: Staff-Inmate Relations', in *The Prison, Studies in Institutional and Organisational Change*, D Cressey (ed), International Thomson Publishing, 1961, p68.

21. European Committee for the Prevention of Torture, *CPT Standards*, CPT/Inf/E (2002) 1 – Rev. 2011, p60.

22. U.S. Department of State, *Country Reports on Human Rights Practices for 2011, Pakistan*, 2011.

23. *Report of the Working Group on Arbitrary Detention to the Commission on Human Rights*, December 2003, E/CN.4/2004/3.

psychological, social and health care needs.²⁴ In addition, the impact of detention can be harsher on women than men. Because there are fewer prisons for women, they tend to be detained far from their families and they are more likely to suffer social isolation, given the added stigma women face for being detained in many contexts.

d. Security is paramount

Success in places of detention is often measured by the fact that there have been no security-related incidents. Security concerns can therefore take on a paramount role, to the detriment of the rights of detainees. For example, in France, there was a police practice of systematically removing the glasses and bras of detainees in police custody on security grounds. The French National Preventive Mechanism found that this failed to balance security measures with the dignity of detainees and was disproportionate, given the small number of incidents it may actually prevent.²⁵

e. A culture of violence

A culture of violence develops with the attitude that violence is normal in a place of detention. This 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. It is likely to impact negatively on staff in places of detention as well as detainees.

f. Using authority for personal gain

Staff working in places of detention may believe they are justified in using the power they have over other individuals for personal gain. This may be because they resent pay levels they think are unfair or management they feel does not support them in their work. They may also feel they need the extra income to maintain lifestyle.²⁶ When corruption is rife in society and its institutions, staff may think that 'this is how things are done' and be influenced by the unlikelihood of getting caught or punished. In some cases, they may be pressured by colleagues or superiors to take part in corruption rackets. These types of attitudes may lead to behaviour such as providing privileges for certain detainees in return for bribes (including in collusion with informal detainee hierarchies) or, in extreme cases, using torture or the threat of it to extort money from relatives of detainees.²⁷

A culture of violence in a Moldovan prison

In its visit to Moldova in 2010, the European Committee for the Prevention of Torture (CPT) noted that there was a climate of violence and intimidation in prison no.12 in Bender. This was linked to the informal prisoner hierarchy and the fact that guards considered they had to rely on this to maintain order. Not only was there violence between prisoners, but guards also participated in violence, especially at night. Prisoners who had been victims of inter-prisoner violence were allegedly approached to make payments to prisoner 'leader' or guards, to ensure their security or to be left alone.

Report to the Moldovan Government on the visit to Moldova carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 to 27 July 2010

g. 'Us and them'

It is common that in places of detention, a hostile 'us and them' attitude develops between staff and persons deprived of their liberty. Staff may be suspicious of the intentions and behaviour of detainees they are supervising or feel in competition with them for the attention of management.²⁸ Staff may also hold such attitudes towards superiors and society, for example that 'no-one understands the risks we take for our work'.²⁹ Research has shown that in policing, 'us and them' type attitudes are linked to more coercive behaviour among police officers.³⁰ In prisons, similar attitudes among staff were linked to higher levels of distress among prisoners.³¹

h. 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 proceedings³² – or when penalties are too lenient to act as a deterrent. Pacts 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 UN Special Rapporteur on torture has highlighted that impunity is a major root cause of the on-going prevalence of torture and other ill-treatment in many countries.³³

24. UNODC and UNAIDS, *Women and HIV in prison settings*, 2008. See also PRI, *Women in criminal justice systems and the added value of the UN Bangkok Rules*, 2015.

25. Contrôleur général des lieux de privation de liberté, *Rapport d'activité*, 2008, pp89-90.

26. The World Bank, *Youth for Good Governance, Module IV: Causes of Corruption*. <http://info.worldbank.org/etools/docs/library/35971/mod04.pdf> <accessed 30 November 2015>.

27. 'Corruption in Iraq: Your son is being tortured. He will die if you don't pay', *The Guardian*, 16 January 2012. <http://www.theguardian.com/world/2012/jan/16/corruption-iraq-son-tortured-pay> <accessed 30 November 2015>.

28. A Coyle, *Managing Prisons in a Time of Change*, International Centre for Prisons Studies, 2002, p77.

29. According to an expert in penal reform interviewed for this paper.

30. Terrill et al, 'Police Culture and Coercion', *Criminology*, Vol. 41, issue 4, 2003, pp1003 – 1034.

31. A Liebling, 'Why Prison Staff Culture Matters' in *The Culture of Prison Violence*, Byrne, Taxman and Hummer (eds), Allyn and Bacon, 2007, p105.

32. United Nations updated set of principles for the protection and promotion of human rights through action to combat impunity (2005) (E/CN.4/2005/102/Add.1).

33. Interim report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 2010, A/65/273.

Systematic torture and a culture of impunity in Nepal

In 2011, the UN Committee against Torture found that torture is being systematically practiced in Nepal and highlighted endemic impunity for human rights violations as a contributing factor. According to information it received, there had been a failure to criminalise torture and no prosecutions or convictions for torture or related abuse in the country. Police often refused to register alleged cases of torture or, along with prosecutors, procrastinated in investigating. The fact that only disciplinary sanctions and lenient penalties were imposed for these acts contributed to the culture of impunity. Moreover, in some cases, high ranking officers of the Nepal Army accused of torture and enforced disappearances had reportedly been allowed to take part in UN peacekeeping missions or promoted, contributing to the message that 'violence carries no consequences for the perpetrators'.

Report of the Committee against Torture, 2012 (A/67/44), Annex XIII.

3. Where can these risk factors be found?

a. Dominant cultures and subcultures

As well as dominant cultures in the whole detaining organisation, there may be subcultures in different institutions within it (for example, different prisons or police stations may have their own distinctive cultures). As a former UK police officer described: 'I was involved in an investigation into a death in custody in a police station where the culture was totally different from others in the division. There was a real culture that you were tough – violence was part of the management structure...' There may also be subcultures in sections, units and departments within a place of detention, or across different levels of staff. In addition, detainee subcultures – which often exist in total institutions such as prisons – can have a significant impact on the life of both staff and detainees. Negative subcultures that develop as part of detainee self-management systems or informal hierarchies can represent particular risk factors for torture and other ill-treatment.

b. Informal detainee hierarchies

Informal detainee hierarchies are common in prisons and can represent strong subcultures with a combination of cultural risk factors. They often have a clear structure and rules, which are enforced through threats, intimidation and violence. These may be linked to structures of gangs or armed groups that exist in the outside world. Detainee hierarchies can act as an alternative administration, collecting 'membership fees' and operating a system of payments for 'privileges' to which detainees would otherwise be entitled. They can thus control every aspect of a detainee's life, from access to phone calls, to meetings with relatives and contact with the authorities. Such hierarchies often control the trade in illicit goods, including drugs, within prisons.

Informal prisoner hierarchy in an Armenian prison

'The 'thieves' structure', which operates in affiliation with the administration, is like a political party that has a fascist ideology and arrangements. Each prisoner that enters the penal institution is mandatorily recruited into the membership of that party. No one dares to express dislike of it. Membership fee is 5,000-10,000 Armenian Dram per month [approx. 10,000-20,000 USD]. It is collected in each cell separately... Each new prisoner is taken aside to a corner of the cell, explained the charter of the 'party' and warned about the punishment meted out in case of noncompliance'.

Life inside penal institutions, DITORD/OBSERVER #8, 2009, Helsinki Committee of Armenia.

Although not officially recognised, staff may rely on or collude with informal detainee 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. Detainee leaders may also exercise power over the prison administration. Such hierarchies not only pose a threat to good order within the place of detention, they constitute a high-risk situation in terms of inter-prisoner intimidation and can lead to a culture of inequality of treatment between inmates.³⁴ They often serve to benefit the leaders to the detriment of those at the bottom of the hierarchy, who tend to be from marginalised groups.

³⁴ European Committee for the Prevention of Torture (CPT), *Report to the Armenian Government on the visit to Armenia carried out by the CPT from 10 to 21 May 2010*.

c. Detainee self-management systems

Officially recognised detainee self-management systems rely on detainees to carry out various roles relating to the running of the institution and/ or everyday living. Detainees may be appointed to roles or be expected to take turns, for example to prepare meals. The UN Subcommittee on Prevention of Torture notes that while such systems can have a positive impact on detainee quality of life, they can also lead to arbitrary use of power and violence ‘to the detriment of vulnerable prisoners, or [be] used as means of coercion or extortion’ if not regulated and managed properly.³⁵

Detainee self-management system in prisons in Benin

The UN Subcommittee on Prevention of Torture (SPT) raised concerns about detainee self-management systems it observed operating in prisons it visited in Benin in 2008. In Cotonou Prison, prisoners were appointed by the prison director to undertake numerous functions including acting as ‘chief’ for each building, checking roll at lock-up time, managing facilities such as toilets or showers, and a committee of elders to deal with problems that arose. These prisoners reported to the director and wore special overalls. The SPT found that the system ‘produced great inequalities and violations of human rights. The problem reached into virtually all areas of prison life affecting who had room to sleep, food and water; who was subjected to additional restrictions of liberty or punished; who worked for whom and who gained the most benefit at the expense of others’.

Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Benin, 2011 (CAT/OP/BEN/1).

4. Deterioration of culture in places of detention

There may be a deterioration in the culture of places of detention in response to changes in the environment, both internal and external to the place of detention, signalling added risk factors for torture and ill-treatment. For example, in 2010, the UN Special Rapporteur on Torture noted that a significant increase in irregular migrants entering Greece had put border guard stations and migration detention centres in that country in a ‘situation of crisis’.³⁶ Border guards were overwhelmed and frustrated as they faced ‘an unprecedented number of arrests of aliens and a serious lack of resources’. They were observed to be aggressive and tense towards detainees and there were several consistent allegations of ill-treatment on arrest and in detention.

³⁵. Fourth annual report of the Subcommittee on Prevention of Torture (SPT), 3 February 2011, CAT/C/46/2, pp15-16.

³⁶. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Greece 10-20 October 2010, A/HRC/16/52/Add.4.

Human rights culture change in places of detention

1. What is human rights culture change?

Human rights culture change can be understood 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’.³⁷ This involves changing shared attitudes and values in places of detention, to ones that value respect for human dignity and the principles of rule of law, non-discrimination and equality, accountability, empowerment and participation.

Culture is recognised as one of the organisational attributes that is most difficult to change.³⁸ Human rights culture change can therefore take time. It is not easy to change deep-seated beliefs about why things are done the way they are. There is often scepticism among staff of places of detention about human rights: that they actually mean giving privileges to the detainees to the detriment of the needs of the staff. In reality however, moving the culture of places of detention to one based on human rights can bring important benefits for both staff and persons deprived of their liberty.

2. Benefits of human rights culture change

Human rights culture change improves the quality of life of detainees as well as the working conditions for staff. Citing experience from some of the most problematic prisons in the world, the International Centre for Prison Studies has noted that there is a ‘pragmatic justification for [the human rights] approach to prison management: it works. This approach does not represent a liberal or soft approach to prison management....this style of management is the most effective and safest way of managing prisons’.³⁹ Moving away from a climate of violence and hostility can contribute to security of staff and improve their experience at work.

These benefits are highlighted by the experience of the State Hospital in Scotland, a high security mental health hospital with voluntary and involuntary patients, the latter

detained under criminal and mental health legislation. In response to criticism about its treatment of patients, the hospital sought to develop and implement a human rights-based approach, through a participatory process involving staff, carers and patients. The process took place from 2002 to 2004 and consisted of a human rights audit of practices and policies, development of a human rights charter and best practices manual, and human rights training. The benefits identified by an independent evaluation are outlined below (see box).

Benefits of human rights culture change in a high security mental health hospital in Scotland

- 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.

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.*

Efforts for human rights culture change in places of detention go hand in hand with work to prevent torture and other ill-treatment because they are forward looking and seek to create an environment over the long term where abuse is less likely to occur.

There are different ways to change culture in places of detention: gradually, unintentionally or through deliberate and intended action. There is no one magic solution to achieving human rights culture change in these places.

³⁷. Ontario Human Rights Commission, *Human Rights and Policing: Creating and sustaining organisational change*, 2011, p8.

³⁸. E Schein, *op.cit.*

³⁹. A Coyle, *A human rights approach to prison management*, International Centre for Prison Studies, 2009, p9.

The appropriate processes and approaches will depend on the socio-political context, as will the existence of political will for change. Reform may be high on the agenda in countries in transition following conflict or authoritarian rule. Human rights principles may also be more readily accepted in democratic states as opposed to non-democratic ones.

Nevertheless, it is possible to draw on existing research⁴⁰ and experience to highlight some key factors that can contribute to culture change. These include deliberate organisational culture change initiatives as well as other factors that help to drive change over time. Monitoring bodies can play an important role in both.

3. Organisational culture change initiatives

Once a decision has been made to change the culture of a detaining organisation, it may need to undergo significant reforms to achieve this. Human rights culture change may also be one aim among others in broader institutional reform initiatives. The following outlines some components which can contribute to the effectiveness of processes aimed at changing culture. Many of these measures can also be taken independently, to contribute to on-going culture change.

a. Participatory process

Experience suggests that culture change initiatives are more effective when carried out through participatory processes involving multiple stakeholders, ie staff, persons deprived of their liberty and, where appropriate, members of the community. There is a risk that if detainees or staff, including staff associations, feel that reforms are purely cosmetic, or serve to only improve the situation for others, they may resist and thwart change efforts. Involving both groups helps to ensure that relevant concerns can be identified and addressed. As well as better informing the process, a participatory approach can therefore help to bring the stakeholders on board.

b. Committed leadership

The leadership of places of detention must be on board for change of culture to take place. This means understanding the history of the organisation, where it is at present, acknowledging that change is needed and setting the new direction.⁴¹ Leaders then need to show

that they are committed to change, including through leading by example. In general, leaders who are visible and respectful,⁴² who have recognisable charisma and attract trust and confidence from staff,⁴³ are more likely to be able to get others on board and achieve culture change within their organisation.

c. Shifting the paradigm: a clear vision based on human rights

To drive positive culture change, there may be a need for a new organisational vision statement⁴⁴ 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, it helps if the new vision is articulated by the leadership, written down, explained and disseminated within the organisation. Such statements should be short and realistic and have some real meaning for staff, so they become a genuine point of reference in their work.⁴⁵ The next step is then to review and adjust the organisation in line with the new vision.

d. The operational structure

The operational structure of a detaining organisation can influence the idea of what it does and why. At the broader level, culture change can involve shifting responsibility for the deprivation of liberty within government to departments whose mandate or philosophy is seen as more appropriate for this role. For example, the transfer of prison systems from the Ministry of the Interior to the civilian control of the Ministry of Justice is seen as an important step in the demilitarisation of prisons, transforming them into institutions 'run on rehabilitative lines, and seeing prisoners as citizens rather than enemies'.⁴⁶

Within the institution itself, culture change may involve adjusting the structure to better ensure accountability, changing the mandate of staff, for example so that the role of prison staff is to run the institution on rehabilitative lines, rather than to assist in criminal investigations, or introducing new roles that specifically look after the needs and wellbeing of detainees, such as custody officers in police detention or case managers in immigration detention.

40. See for example: T G Cummings & C G Worley, *Organization Development and Change*, South-Western College Publishing, 9th ed, 2009, pp526-528.

41. See A Coyle, *Managing Prisons in a Time of Change*, op. cit., chapter 4.

42. Former Australian Prison Director interviewed by the author.

43. A Coyle, *Managing Prisons in a Time of Change*, op. cit, p72.

44. T G Cummings & C G Worley, op. cit., p526.

45. Former UK police officer interviewed for this paper.

46. International Centre for Prison Studies, *Guidance note 7, Moving Prisons to Civilian Control: Demilitarisation*, 2004.

Demilitarisation of prisons in Kazakhstan

The UN Committee against Torture identified the transfer of authority for the penitentiary system to the Ministry of Justice as one of the main achievements of legal reform in Kazakhstan in their concluding observations, adopted in 2001. It recommended to 'complete the transfer of responsibilities for prisons from the Ministry of Internal Affairs to the Ministry of Justice, thereby permitting the demilitarization of the penitentiary system.'

UN Committee against Torture, *Concluding Observations on Kazakhstan*, 2001 (UN-Doc. A/56/44(SUPP)).

e. Policies and procedures

These will need to reflect the wider statement of purpose and be in line with human rights. They should ensure that actions that may interfere with the rights of detainees are taken on an individual basis, according to an assessment of their necessity, legality and proportionality. It is not always easy to operationalise human rights standards. But there is an important body of practical guidance developed by expert bodies such as the UN Subcommittee on Prevention of Torture (SPT)⁴⁷ and the European Committee for the Prevention of Torture (CPT).⁴⁸

Some measures frequently recommended by these bodies include:

- Effective accountability systems
- Independent complaints mechanisms
- Clear disciplinary procedures
- Independent monitoring
- Dynamic security (see section f below)
- Fundamental safeguards against ill-treatment
- Individualised risk assessments
- Purposeful activity and measures for social reintegration for prisoners

f. Dynamic security

A 'dynamic security' approach acknowledges that securing the perimeter and procedural security arrangements, while important, are not sufficient to ensure safety and security in prison. Rather, the factors that determine safety and security are 'dynamic' and require staff to be aware of what is going on in the place of detention.

It is widely recognised that staff interacting with detainees in a humane and equitable way enhances security and good order.⁴⁹ Incidents can best be prevented if a positive relationship is established between staff and detainees, which allows staff to identify tensions building up at an individual or group level and therefore intervene early on.⁵⁰

Since detention staff know the detainees, 'they will be able to identify any who are unsettled or likely to threaten violence and deal with them in a way which prevents the onset of violence. It will also be more difficult for prisoners who wish to create trouble to stir up other prisoners if the general approach of staff has been fair and consistent'.⁵¹

Dynamic security is therefore based on positive staff-prisoner relationships combined with fair treatment and purposeful activities.

The revised Standard Minimum Rules for the Treatment of Prisoners recognise this concept, encouraging prison administrations to 'use, to the extent possible, conflict prevention, mediation or any other alternative dispute resolution mechanism to prevent disciplinary offences or to resolve conflicts'. (Rule 38)

g. Symbols and language

Where there is a need for a break with the past, the symbols and language of the detaining organisation may need to be changed. For example, following the cessation of 'the Troubles' in Northern Ireland, an independent commission found that the 'words and symbols' of the Royal Ulster Constabulary were associated with one side of the conflict and had become politicised.⁵² It was thus renamed the Police Service of Northern Ireland and its crest and oath were replaced to ensure neutrality in relation to the two communities in Northern Ireland.⁵³ This symbolic transformation has had an important impact on the organisation from a human rights perspective.⁵⁴

47. The UN Subcommittee on Prevention of Torture was created under the Optional Protocol to the UN Convention against Torture (OPCAT). See <http://www.ohchr.org/EN/HRBodies/OPCAT/Pages/OPCATIntro.aspx> <accessed 27 November 2015>.

48. See www.cpt.coe.int

49. United Nations, *Prison Incident Management Handbook*, 2013, p21, 22.

50. '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'. See 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* (Rec(2003)23).

51. A Coyle, *A human rights approach to prison management*, second edition, pp 59, 60, 69, 70.

52. The Independent Commission on Policing for Northern Ireland, *A New Beginning: Policing in Northern Ireland*, 1999, chapter 17.

53. Northern Ireland Policing Board, *Human Rights Thematic Review: Policing with and for Gay, Lesbian, Bisexual and Transgender Individuals*, 2012, p40; G Ellison, 'A Blueprint for Democratic Policing Anywhere in the World?: Police Reform, Political Transition, and Conflict Resolution in Northern Ireland', *Police Quarterly*, vol. 10, 2007, p251; and M Lamb, 'A Culture of Human Rights: Transforming Policing in Northern Ireland', *Policing: A Journal of Policy and Practice*, 2008, p389.

54. M Lamb, *ibid*.

h. Physical environment

The physical environment of a place of detention can hinder or support the implementation of human rights. Its architecture can reflect a given philosophy around detention. While it is not always possible to change bricks and mortar, this can support culture change. An example of a place of detention built according to human rights principles is the Alexander Maconochie Centre in Australia, a prison which became operational in 2009.⁵⁵ According to the Australian Capital Territory Corrective Services, the prison was designed in an open campus style, minimizing overt harsh signs of incarceration and with accommodation units around a 'town square' which provides the focus of prison activities.⁵⁶ Cells were designed to improve privacy and cottage accommodation was designed to give prisoners a high degree of autonomy over day-to-day decisions, with prisoners cooking their own meals and managing their own budgets with training and support from staff. The visiting area was designed to have a friendly atmosphere, with a coffee shop and provision for prisoners to have barbecues with their families.

i. Recruiting, placing and dismissing staff

Positive culture change involves ensuring that the skills and experience of staff at different levels reflect the values, policies, new operational structures and roles put in place. This may mean ensuring a number of staff from certain ethnic minorities or professional backgrounds. At the middle management level, there need to be individuals who are committed to the change process: to lead it, convince others and make sure that the new procedures are enforced.

Staff demographics in Swedish immigration detention

Part of human rights culture change efforts in immigration detention in Sweden involved replacing private security contractors with 'social workers, counsellors and people with experience working in closed institutions, to bring sensitivity and experience to their work...'

Grant Mitchell, *Asylum Seekers in Sweden*, 2001.

It may also involve dismissing staff who are not suitable for the role or new organisation. For example, starting in 2004, police reform in Georgia involved abolishing problematic units and downsizing others, including dismissing staff who were thought to have been involved in corruption and other illegal acts⁵⁷ – in total around half the police force lost their jobs in the process.⁵⁸ The remaining officers were issued with redesigned uniforms and were given wage increases on average nine to ten times more than in the past.⁵⁹ While shortcomings in the impact of these reforms have been pointed out,⁶⁰ there are also indications of improved police practice, including 'considerably improved' treatment of detainees by police.⁶¹

More recently, in 2012, the Mayor of Acapulco, Mexico, announced that he would be dismissing 500 of the city's 1,700-strong police force after they failed a test designed to identify corrupt officers.⁶² This followed a report released by the Mexican National Human Rights Commission in 2011 describing a 'systematic pattern' of illegal police activity in conducting drug searches.

j. Training

Training is part of ensuring that staff understand the new organisational vision, policies and procedures as well as the human rights principles behind them. The emphasis should not be on theory, ie legal human rights standards, but what these mean in practice, for example through the discussion of case studies. In terms of culture change, training for a *role* is as important as training for a task.⁶³ 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.⁶⁴

55. J Stanhope, *The Prisoner as Human Being*, Right Now, 2012 <<http://rightnow.org.au/topics/bill-of-rights/the-prisoner-as-a-human-being/>> <accessed 30 November 2015>.

56. ACT Corrective Services, *Alexander Maconochie Centre information booklet*, 2010. See also http://www.cs.act.gov.au/custodial_operations. <accessed 30 November 2015>.

57. It should be noted that a number of police officers that were fired for corrupt or other illegal practices were later recruited by the Ministry of Corrections and Legal Support and became prison guards in the Georgian penitentiary system.

58. M Devlin, *Seizing the Reform Moment: Rebuilding Georgia's Police, 2004 – 2006*, Princeton University, Innovations for a Successful Society, 2010 www.princeton.edu/successfulsocieties; J Boda and K Kakachia, *The Current Status of Police Reform in Georgia*, Geneva Centre for the Democratic Control of Armed Forces (DCAF), 2005.

59. *ibid.*

60. *ibid.*

61. European Committee for the Prevention of Torture (CPT), *Report to the Georgian Government on the visit to Georgia carried out by the CPT from 5 to 15 February 2010*, CPT/Inf (2010) 27.

62. 'Acapulco mayor to fire 500 police officers for corruption', *Jurist*, 3 November 2012, <http://jurist.org/paperchase/2012/11/acapulco-mayor-to-fire-500-police-officers-for-corruption.php> <accessed 27 November 2015>.

63. C Harfield, 'Paradigm not Procedure: Current Challenges to Police Cultural Incorporation of Human Rights in England and Wales', *Public Space: The Journal of Law and Social*, vol. 4, 2009, p91.

64. In the experience of the Association for the Prevention of Torture (APT) and according to experts interviewed by the author.

Training and the demilitarization of prison systems in former Soviet countries

In former Soviet countries, despite the transfer of prison systems from the Ministry of the Interior to the Ministry of Justice, many of the training courses for new senior staff continued to include up to 50 per cent military training, according to the International Centre for Prison Studies: 'Changes in the curriculum tended to be additions to the existing curriculum. Fundamental changes in structure and ethos will require an equally fundamental change in the curriculum and training approach'.

International Centre for Prison Studies, 'Demilitarisation' in *Prison Services in Central and Eastern Europe, A Position Paper*.

k. Supervision and reinforcement

As we saw earlier, the informal rules, as set by managers through tacit social approval, are more likely to have a bearing on culture in places of detention than formal policies. The importance of proper supervision, staff evaluation and reinforcement, through incentives and sanctions, therefore cannot be overstated. As a former UK police officer explained: the policy 'has got to be enforced: you have to have people who will sell it, focus on it and manage deviations. These will be managers closer to the ground'.

'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....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.'

Former prison director in Australia

l. Addressing resistance: showing it's better for everyone

There will always be people opposed to change. Some may fear losing status or worsening work conditions. It can also threaten vested interests, such as opportunities for corruption. It is therefore important to emphasise that a human rights culture will be better for everyone, and let staff and detainees see this in practice.

4. Drivers and contributing factors for culture change in detention

As well as internal culture change initiatives, a number of factors can contribute to driving culture change within places of detention and increasing its sustainability. As there are many sources of cultural influence, these factors are also found on different levels: within the places of detention themselves, in relation to the legal and policy frameworks, within other institutions and actors, and the broader society. An important step is also getting the need for culture change on the agenda. Some measures have been mentioned in the section above – here we look at others that can help to bring about culture change in detention (the list is not exhaustive):

a. Getting culture change in places of detention on the agenda

In most societies, ensuring the rights of detainees is not a priority in politics or public opinion. Some drivers are therefore needed so that decision-makers recognise the need for a human rights culture change in places of detention. More visible drivers for change include high profile incidents such as deaths or other violent incidents in custody, which cause public shock and outrage. Independent public inquiries mandated by the parliament or government following such incidents may highlight systemic human rights problems and the need for cultural change. At the same time, less visible drivers such as regular independent monitoring of places of detention, peer- to-peer exchanges among detaining authorities, and the influence of individuals who are open to change in decision-making positions can help to start change processes before such crises occur.

Civil society and persons deprived of their liberty can also play a role in getting the need for change on the agenda. For example, from the late 1960s in Sweden a series of prison strikes supported by prisoners' rights groups called for better treatment and a more humane prison system.⁶⁵ Following stalled talks with 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.⁶⁶ This led to new legislation being enacted in 1974 which was much more liberal on the treatment of offenders and led to significant changes in the Swedish penal system. This example also highlights the positive impact of ensuring that detainees are aware of their rights.

65. R Nilsson, 'A well-built machine, a Nightmare for the Soul': The Swedish Prison System in Historical Perspective', *Journal of the Institute of Justice and International Studies*, vol. 1, 2002, p17. For a detailed account of prisoner strikes and related negotiations in Sweden in 1970 and 1971, see T Mathiesen, 'Organisation among the Expelled', in *Scandinavian Studies in Criminology*, vol. 4, Universitetsförlaget, 1974, pp129-172.

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

b. Opening up places of detention

Ensuring transparency of places of detention introduces a balancing cultural influence and acts as a deterrent for potential abuse. It includes a range of initiatives such as allowing external scrutiny of places of detention by independent monitors such as NGOs, national, regional and international bodies, ensuring visits by officials such as judges and prosecutors, and public inquiries into detention practices. It also includes allowing NGOs to enter these places to provide services and creating links between detainees and the outside world, for example through family visits. The latter contributes to rehabilitation and reintegration post release and hence to reducing reoffending.

Culture change can be aided by breaking down the artificial barriers that tend to exist between authorities in charge of places of detention and human rights actors, including 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 their work. But experience suggests that culture change is more likely to be effective when they work constructively together. Civil society can provide expertise, point out problems and suggest solutions, share international practices and monitor change processes to contribute to their sustainability.

c. Legislation and public policies as drivers for culture change

Legislation has been a component of many processes of culture change in places of detention. This includes legislation setting out specific rules, procedures and responsibilities in relation to detention, changing the way things are done. It also includes human rights legislation, which provides a set of principles to be respected by staff in the course of their work. In some cases, legislation may reflect changes in societal attitudes or be enacted to comply with international obligations or recommendations of expert bodies. There is some debate as to whether human rights legislation alone can bring about culture change in detention, but there is no doubt that it can contribute to it.

Public policies can also feed into the paradigm of detaining organisations and generate, as well as reflect, wider social attitudes regarding detention. Unfortunately, public policies relating to detention can be reactive or opportunistic, as seen in policies that are tough on crime or immigration in the run up to elections. But they may also have a positive effect. In Australia, an immigration policy in 2008 moved from mandatory detention of illegal immigrants to a 'client-focused approach' which employed detention as a last resort.⁶⁷ This had a positive impact on the experience of immigration detainees, although many initial gains have since been lost with

changes in government and policy.⁶⁸ Legislation can provide a certainty not offered by government policies.

d. The influence of other institutions and actors on culture in places of detention

The deprivation of liberty occurs within a wider institutional framework. For example, courts are often involved in ordering detention and ensuring safeguards against ill-treatment are respected. Prosecutors may supervise police and have an oversight role of detention. Rule of law institutions are responsible for ensuring oversight and accountability, including through impartial investigations and the effective prosecution of human rights violations which are defined as criminal offences. The attitudes and values of these actors can drive or hinder culture change in detention. They are in turn likely to be influenced by those of society in general.

For example, in many Commonwealth of Independent States (CIS) countries, prosecutors have a prison oversight function. However, the prosecution is often one of the few institutions that has not undergone reform since Soviet times. Although prosecutors regularly visit prisons and meet with staff and prisoners, they commonly side with the prison administration and fail to properly investigate allegations of human rights violations of prisoners.

The role of judges in changing police culture in the UK

'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'.

Former UK police officer

e. The need for culture change to be embedded in wider society

Human rights culture change needs to be embedded within wider societal values in order to take effect and be truly sustainable. For example, a reform of the New South Wales Police, Australia, was successful in minimising corruption but had little impact on improving relations with minority groups.⁶⁹ A study found this was because there had been 'widespread community and political concern about corruption' but not 'the same

67. J Phillips and H Spinks, *Immigration detention in Australia*, Parliament of Australia, 2012.

68. According to discussions at the conference, *Implementing Human Rights in Closed Environments*, Monash University (Melbourne, Australia) 20 – 21 February 2012, Parallel Session 7D: Asylum and Immigration.

69. J Chan, 'Changing Police Culture', *British Journal of Criminology*, vol. 36, issue 1, 1996, p109.

70. *ibid.*, p130.

type of concern about police racism or police abuse of power'.⁷⁰ The media has a significant influence on the opinions formed in society and how the public and decision-makers prioritise issues.⁷¹ Unfortunately, there is a tendency for the media to sensationalise issues related to detention, for example crime, drugs, and immigration, focusing on the negative and thus triggering 'more punitive, reactive legislation and policies'.⁷² At the same time, media reporting can foster attitudes that recognise the need for human rights in detention and lead to better treatment of detainees.

⁷¹. Juvenile Detention Alternatives Initiative, *Using media advocacy to promote detention reform: A practical guide to juvenile detention reform*, 2009.

⁷². *ibid.*

What do monitoring bodies need to engage in culture change?

To work on culture change, monitoring bodies need the expertise and skills of perception to be able to understand the culture in places of detention through their visits. This means ensuring diverse know-how relevant to the institutions they visit. Monitors with first-hand experience in these places, such as former staff or detainees, may be able to draw on this experience to grasp the culture in similar institutions. To influence culture change, monitors must be seen as credible in the eyes of the authorities and broader society, in terms of their expertise and professionalism. Because culture change takes time, monitoring bodies need to adopt a long-term perspective and demonstrate perseverance in their work.



Second edition

Incorporates the 2015 revised Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).



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Detention Monitoring Tool

**Addressing risk factors
to prevent torture
and ill-treatment**



About this paper

This paper is part of PRI/APT's Detention Monitoring Tool, which aims to provide analysis and practical guidance to help monitoring bodies, including National Preventive Mechanisms, to fulfil their preventive mandate as effectively as possible when visiting police facilities or prisons.

The tool seeks to support such bodies in addressing systemic risk factors that contribute to an environment where torture or other ill-treatment occur. It includes:

Thematic papers: these analyse broader themes that will benefit from a comprehensive monitoring approach, examining regulations and practices throughout the criminal justice process with a systemic lens, such as gender, sexual orientation or institutional culture.

Factsheets: these provide practical guidance on how monitoring bodies can focus on a number of systemic issues that are particularly high risk factors for torture or ill-treatment, such as body searches or the working conditions of prison staff.

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