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NETWORKS

WORKING TOGETHER

EXTERNAL PRISON OVERSIGHT AND
HUMAN RIGHTS

NEWSLETTER

24 SEPTEMBER 2019

This network is committed to bringing together various agencies responsible for external prison oversight to share information and exchange best practices and lessons learned.

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Welcome Message from the Chair

It is with great pleasure that I introduce the third issue of our Network newsletter.

It's been a busy summer for the *Expert Network on External Prison Oversight and Human Rights*, as we gear up for the upcoming 2019 ICPA Annual Conference in Buenos Aires, Argentina.

ICPA 21st Annual Conference

As you might recall from the last issue, we had submitted two panels to the ICPA conference, and I'm happy to announce that both were approved! The first will be a parallel plenary session titled, "**External Prison Oversight, Dignity and Human Rights**" featuring our esteemed friends from Argentina, Dr. Francisco Mugnolo and Professor Diego Zysman, and my Canadian colleague, Professor Michael Jackson. The second panel will be in the form of a workshop titled, "**Dignity, Human Rights and Solitary Confinement.**" We are very thankful to Dr. Rosemary [Rose] Ricciardelli, Mr. Howard Sapers, and Ms. Ilina Taneva for agreeing to be our panelists for this workshop.

For those of you attending the conference, **please note that there will be two Network meetings during the conference.** A pre-conference closed meeting on October 27th from 1:30 to 4PM for network members who are oversight representatives, and an open discussion for network members at large (and anyone else interested in oversight issues) on October 29th from 8:15 to 9:15AM. Details will be provided in the conference program, but feel free to reach out for more information.

Finally, I am honoured to announce that I've been invited to participate on the closing panel discussion at the ICPA conference on October 31st. This is a great opportunity for raising the profile of our network, and for highlighting the importance of prison oversight and human rights in corrections.

Current Newsletter

In order to align with the theme of ICPA's Annual conference, the **featured topic for the current issue is "Strengthening Correctional Cornerstones: Rights, Dignity, Safety**



WELCOME

and Support.” We are indebted to Rose Ricciardelli, Paul Geurts, and Michael Jackson for their contributions. Furthermore, the host country for the conference, **Argentina, is our featured jurisdiction.** I would like to extend my gratitude to *La Procuración Penitenciaria de la Nación* for their diligence and cooperation, not only in preparing the articles for this newsletter, but also for helping us prepare for the conference in Buenos Aires.

Finally, I would like to thank Matthew Pringle for his ongoing work at the CanadaOPCATproject.ca, which has been an invaluable resource for this newsletter.

With Appreciation,

Ivan Zinger, Correctional Investigator of Canada.

International Committee of the Red Cross (ICRC), detention monitoring and enabling prison services to improve internal inspections: A personal observation.



By Paul Geurts

Prison System Advisor, ICRC.

Myanmar, India.

The ICRC has been working in detention for over 100 years. This work began during the French German War in 1870 when it took care of the wounded and compiled lists of missing soldiers and prisoners of war. The work of the ICRC is grounded in the Geneva Conventions (for more information, visit www.icrc.org).

Over the years, ICRC's work with detainees has evolved from visiting prisoners of war into an all-prisoners approach. This means that the ICRC does not limit itself to only visiting prisoners related to a conflict, but aims at visiting all detained persons. These visits are conducted by delegates. These delegates talk in a confidential way with the detainees and with the staff working with them. Topics include treatment in detention, the living environment, and the implementation of laws and regulations. The ICRC also talks to prison staff about their living and working conditions. Findings from these talks are only shared with the concerned prison service. As the ICRC resides in most countries where it has been active for many years, the ICRC is seen by many prison services as a reliable and constant partner towards improvement. For many prisoners, ICRC's visits are a possibility to talk with someone from the world outside. This has been expressed many times during our visits, but also after release, and most famously by Nelson Mandela:

"Not only does the Red Cross hold a special place in our collective sense of ourselves as a globally caring community; to me personally, and those who shared the experience of being political prisoners, the Red Cross was a beacon of humanity within the dark inhumane world of political imprisonment."

Monitoring prison systems

More recently, the ICRC supported the strengthening of healthcare services and sanitation in places of detention. More recently, the ICRC has been involved in supporting prison services by improving the way they function. This involves working with all involved partners in the chain of justice: The prisoner, the staff, the prison manager, the responsible ministry and legislators. To make this happen, the ICRC employs experienced former prison managers who work as Prison Systems Advisors.

The different levels of support the ICRC offers to a concerned prison service aims at a systemic improvement of this service. This means involvement at every level: treatment of prisoners, detention conditions, professionalism of prison staff, management capacity, legislation and regulations. Consequently, the way the ICRC works in prison functions *de facto* as an external monitoring system. Improvements at the top of the pyramid (legislation, new policies, agreements made), can be checked against their effects on treatment and detention conditions at the prison level during ICRC's visits. Again, feedback is given through bilateral discussions and through reports (working papers). All this happens in a confidential way.

Supporting prison systems in the development of internal inspection systems

Most prison services that the ICRC works with have a relatively weak management system. Vital management information is not, or only partly, available. The service is often understaffed with responsibility over too many prisoners. Proper management information helps a prison system to follow trends in the system more effectively (and to support cooperation within the Chain of Justice). It assists in predicting developments for the medium and long term. It also provides for information that can be shared with the responsible Ministry and with Parliament. Supporting the development of or strengthening internal inspection mechanisms are important tools for strengthening the accountability of the prison system. The inspectorate does not function as an internal audit commission (although this could be part of it). The inspectorate follows-up on detainees and staff wellbeing; the sense of safety and security experienced by staff and detainees; and checks and balances governing the treatment of prisoners.

The training for starting Inspectorates, which has been delivered in some countries, covers the following items:

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- Why should prisons be inspected?
- What principles should be used for inspection?
- Sharing of best practices.
- Human Rights standards / national legislation and regulations.
- Monitoring topics and techniques, and how to prioritize.
- Interviewing techniques.
- Observation and reporting.
- How to prepare for an inspection visit.
- Piloting a monitoring visit to a prison.
- Development of a *monitoring / measurement tool*.¹
- Evaluation and adaptation of the monitoring / measurement tool.

To develop internal inspection mechanisms a number of arrangements need to be made:

- In order to make it clear that inspections are being done to support prison managers in doing a better job, it is important that prison managers understand how an inspection in prison is done and what information is being collected. It is advisable to organize workshops for prison managers to create this understanding.
- As inspectors will often also be employees of the prison system, there should be a guarantee that the inspectors can do their work at arm's length. Best option would be a line-of-command directly to the head of the prison service (as it is an internal inspectorate).
- There is no need for an inspectorate to be very big. Prison professionals will be the inspectors leading the inspections. Specialists can be drawn from the prison system whenever required.
- The inspectorate should have sufficient and permanent administrative support and a sufficient budget, based on an annual inspection plan.
- The inspectorate can conduct general planned inspections, unannounced inspections, and partial inspections.

¹ The tool was, in this case, no more than a standardized excel sheet. This tool is important for standardization of information and as a tool for benchmarking.

- Inspection reports will be shared with the concerned prison manager to be checked for possible mistakes or inaccuracies. The final report will be sent to the head of the prison service.

In my experience, a period of intensive coaching is important. It is difficult for many inspectors, even after the training, to work in a standardized way and to develop advice that is useful for and accepted by the concerned prison service and, more importantly, the concerned manager.

Human Rights and Dignity in corrections: The basis of our work

Working in prisons with prisoners, while focusing increasingly on the rehabilitation of prisoners, asks a lot from prison staff. Often, I ask myself if expectations are not too high. Prisoners are not imprisoned for nothing. They committed a crime. However, the vast majority of them also come from broken families, have serious learning disabilities, and have never completed their education. Perhaps this is too much of a generalization, but talk to prisoners - it is often true. Of course, one can hold the adult prisoner responsible for their behavior, but I keep asking myself if this is fair. This is exactly the reason that, as professionals, we must look at detention as a second chance for those who missed the first one. That is also why education and behavioural programs in places of detention are important.

But it is not only this. Working in prisons is also about kindness, offering a shoulder when required, and motivational input - without forgetting the security aspects. This is called professionalism. This makes the job of the prison officer one of the most difficult ones (and one of the least appreciated) in the world.

When prison officers are being asked why they choose their job, you will find very few of them dreaming of this vocation when they were young. Most of them ended up working in detention after doing something else – being a Prison Officer was not their first choice. Ask the ones who have been working in detention for some time if they like their job, and most will respond positively. Ask them “why?” and many will respond by saying that they enjoy working with people. Specifically, people in challenging circumstances. A job which is sometimes rewarding, but sometimes not.

To create an atmosphere conducive to change in places of detention it is important that staff are well trained, so that they know what is expected from them, but it also requires a

particular attitude. An attitude with two faces: the prison officer who enforces regulations and the prison officer who is flexible and has a listening ear. We need prison officers who understand that although individuals can be deprived of their liberty (in fact, lose their liberty), are still entitled to being treated with respect and retain their human rights.

In places of detention, a climate conducive to rehabilitation and personal betterment, asks for officers who can respect the dignity of an individual in a difficult situation.

Sometimes people ask if prisoners deserve these rights. My answer is always the same, and it is a very selfish one. I once worked as an advisor to a Director General for a prison system in a war-torn country. I could not help overhearing his discussion with some of the non-governmental organizations (NGOs). He explained that in his prisons he needed vocational training, and he needed capacity building for his staff. When the NGO's had left, I asked him why, looking at all his problems, he was asking for tools for rehabilitation. His answer:

“You know Paul, these prisoners here will one day be released. On that day they will become somebody’s neighbour. What type of neighbour do you want?”

Reforming Segregation: Best Intentions within Complicated Realities



By Rosemary Ricciardelli

Professor of Sociology, Memorial University of Newfoundland, Canada.

Note: *You can see Dr. Ricciardelli present her recent work (as described in the piece below) at our Network workshop titled, “Dignity, Human Rights and Solitary Confinement,” during the 21st ICPA conference in Buenos Aires.*

Introduction: Canadian correctional services and segregation forms

In Canada, provincial and territorial correctional institutions are run by their respective provincial/territorial Departments of Justice and/or Public Safety and house individuals sentenced to less than two years as well as prisoners awaiting court proceedings. In contrast, federal institutions are run by a national prison agency (the Correctional Service of Canada) and hold individuals sentenced to a term of two or more years. While the systems operate under distinct policy frameworks, policy changes in one setting can generate influence across contexts; moreover, practices across settings are influenced by an array of socio-historical factors tied to different social, political, and legal factors. The case of segregation is an illustrative example.

For years, concerns have been raised regarding the use of segregation in Canada at the federal level by the Office of the Correctional Investigator, Canada’s federal prison oversight body. The former Correctional Investigator, Howard Sapers, noted in 2012² that from 2010-2011, 19 percent ($n=8,019$) of the 42,000 federal prisoners in Canada had been housed in segregation, with only 18 percent being placed voluntarily (i.e., 82 percent were placed involuntarily). Concerns around length of stays in segregation have also been

² Sapers, H. (2012) *Annual Report of the Office of the Correctional Investigator of Canada 2011–2012*. Ottawa, ON: Office of the Correctional Investigator, Public Works and Government Services Canada

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raised, as Sapers had found that placements average 35 days,^{3, 4} contravening the United Nation's recommendation that segregation placements not exceed 14 days.^{5, 6} In 2015, Prime Minister Trudeau openly spoke about limiting the use of segregation,⁷ words which he made true during his time in office with the tabling of Bill C-83.⁸

Recent federal litigation has successfully challenged the use of segregation in federal correctional services, with the Supreme Court ruling it unconstitutional.^{9, 10} In response, the federal government has amended the Corrections and Conditional Release Act to include new units for individuals who are unable to be safe in the general prison population.¹¹ Structured Intervention Units (SIUs) are the new model being implemented as of November 2019.¹² In concept, the legislation addresses the tension that exists between human rights and security. On the one hand, the legislation recognizes that certain individuals may need accommodation outside of the general population for their

³ Sapers, H. (2011) *Annual Report of the Office of the Correctional Investigator of Canada 2010–2011*. Ottawa, ON: Office of the Correctional Investigator, Public Works and Government Services Canada.

⁴ Sapers, H. (2012).

⁵ Mendez, J. (2011, October 18). Solitary confinement should be banned in most cases, UN expert says. *UN News*. Retrieved from <https://news.un.org/en/story/2011/10/392012-solitary-confinement-should-be-banned-most-cases-un-expert-says>

⁶ Metcalf, H. and Resnick, J. (2012) Reassessing Solitary Confinement, Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights Congregation. *Legal Testimony*.

⁷ Fine, S. and White, P. (2015, November 13) Trudeau calls for ban on long-term solitary confinement in federal prisons. *The Globe and Mail*. Retrieved from <https://www.theglobeandmail.com/news/national/trudeau-calls-for-implementation-of-ashley-smith-inquest-recommendations/article27256251/>

⁸ Harris, K. (2018, October 16). Liberals move to end solitary confinement of federal prisoners. *CBC News*. Retrieved from: <https://www.cbc.ca/news/politics/segregation-corrections-goodale-1.4602084>

⁹ Li, W. (2019, June 24). B.C. Court of Appeal confirms prolonged solitary confinement is unconstitutional in Canada. *Star Vancouver*. Retrieved from <https://www.thestar.com/vancouver/2019/06/24/bc-court-upholds-decision-striking-down-canadas-solitary-confinement-laws.html>

¹⁰ Perkel, C. (2019, July 16). Ottawa wins last-ditch reprieve for law allowing inmate segregation. *The Canadian Press*. Retrieved from <https://www.cbc.ca/news/canada/toronto/ontario-solitary-confinement-court-case-reprieve-1.5177613>.

¹¹ Corrections and Conditional Release Act. (2018). Commissioner's Directive Number 709: Administrative Segregation. Correctional Services Canada, Ottawa. GL-709-1. Retrieved from <https://www.csc-scc.gc.ca/lois-et-reglements/709-cd-eng.shtml>

¹² Correctional Services Canada (CSC). (2019). Structured Intervention Units. Correctional Services Canada, Ottawa. Retrieved from <https://www.csc-scc.gc.ca/002/010/002010-index-en.shtml>

own safety or that of others – thereby promoting the security and safety of institutions. At the same time, the legislation explicitly removes isolation as a population management tool and replaces it with the notion of intervention – which involves regular engagement and “meaningful human contact”. The goal of these intervention units appears to be tied to addressing the factors that lead to one’s inability to integrate through intensive interventions.

The extent to which changes in federal legislation will affect provincial and territorial correctional systems, and, by implication, the working environment of staff, remains to be seen. In some provinces administrative segregation remains, but changes in the use of disciplinary segregation are underway. Insofar as they manage the daily interactions of prisoners, front-line staff will undoubtedly play a significant role in shaping the practical implementation of policies. Their perceptions, understandings, and beliefs can mediate how policies are interpreted and applied. Furthermore, the personal safety and well-being of staff are shaped by the policies governing correctional operations, including policies around segregation. Yet few Canadian researchers have examined segregation from the perspective of front-line staff.

Seeking to explore the working meanings of segregation from the point of view of officers, I focus my attention on those who manage the daily interactions of prisoners and thus enact the use of segregation at a prison in Atlantic Canada, a medium and maximum provincial institution built in 1859, renovated in 1945, 1981 and 1994, that has, at present, both an administrative and a disciplinary segregation unit. The institution primarily houses men but can also house women if the need in the province arises. Prisoners at the institution included those sentenced to a provincial term (i.e., less than two years), those on remand (awaiting trial and/or sentencing), as well as those awaiting transfer to a federal institution. The institution faces chronic structural problems, perhaps most evidenced by announcements from Ministers of Justice that the ground will break (at some

point) and a new prison will be built.^{13, 14} In addition, new policies on disciplinary segregation (not administrative) are set to be released in the fall of 2019.

In the province, a key distinction remains (as in many other jurisdictions) between administrative and disciplinary segregation. Administrative segregation is utilized in cases where a prisoner's safety is perceived to be at risk within the general population.¹⁵ As frontline officers explained, administrative segregation units contain a small number of cells and a small area with a common space. If there are no issues of compatibility, segregated prisoners may interact within the communal space on the segregation unit, thereby enabling some degree of human interaction. In contrast, disciplinary segregation in the province is employed when the actions of prisoners are perceived to disturb the security or order of the institution or otherwise compromise the safety of the prisoner, fellow prisoners, staff, the facility, or society. To contain the perceived potential threat, the prisoner is relocated to disciplinary segregation, where they are typically cell-confined for 23 hours daily, until the risk is deemed manageable.

Correctional Officer Perceptions

Reforming segregation reveals a welcomed trend away from punitive ideologies (e.g., “tough on crime”) toward more humane conditions of confinement, which counters much of penal populist previous ideologies toward harshening conditions of confinement and lengthening sentencing (see the *Safe Streets and Communities Act* [C-10] enacted under the former Conservative Harper government¹⁶). There is hope to create a more humane

¹³ For example: CBC. (2019, April 10). \$200M replacement pledged for Her Majesty's Penitentiary, says Justice Minister. *CBC News*. Retrieved from <https://www.cbc.ca/news/canada/newfoundland-labrador/andrew-parsons-corrections-1.5091886>

¹⁴ Kelland, A. (2018, March 29). Money budgeted for planning of new penitentiary – but will it ever happen. *CBC News*. Retrieved from <https://www.cbc.ca/news/canada/newfoundland-labrador/hmp-budget-planning-1.4596894>

¹⁵ For more information on administrative segregation, see Bonta, J., and Gendreau P. (1990) Re-examining the Cruel and Unusual Punishment of Prison Life. *Law and Human Behavior* 14(4): 347-72.

¹⁶ Parliamentary Information and Research Service (2011) *Legislative Summary of Bill C-10*. Publication Number 41-1-C10-E.

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working environment and provide more space for interaction, however, key questions emerge around safety.

Officers recognize how segregation reforms are influenced by the public, particularly in relation to inquests,¹⁷ reviews¹⁸ and legal actions.¹⁹ A key concern among correctional officers was that their perceptions, positions, and experiences are neglected in the context of policy reforms. Officers are responsible for the relocation of prisoners to disciplinary segregation (or administrative) and for overseeing their return to general population; obligated to ensure the safety and security of the prison and all those inside its walls.²⁰ Yet, officers felt largely excluded from the process of decision-making, despite the fact that policy decisions have direct bearing on their occupational work, including their safety and that of prisoners, and the institutions.

On the topic of segregation reforms, officers expressed concerns in the ambiguity and unpredictability of what lies ahead. A commonly noted concern rests in what can be done to intervene in an altercation between prisoners and to create a space for the de-escalation of emotions. Officers explained that the possible inability to remove an irate prisoner in an overcrowded cell creates undue risk for the cellmate(s). Thus, officers feel their options are restricted and their occupational discretion and agency in making choices is reduced. In select cases creating an even more vulnerable and uncertain work space.

The prospect of losing segregation as a population management tool led some officers to fear they would lack the ability to express their authority or ensure control over a unit. Officers explained that changing norms around the use of segregation was changing staff-

¹⁷ Correctional Services Canada (CSC). (2014). Coroner's Inquest Touching the Death of Ashley Smith by Dr. John Carlisle. Held at Corner's Court Toronto, Ontario. Retrieved from <https://www.csc-scc.gc.ca/publications/005007-9009-eng.shtml>

¹⁸ Jesso, M. (2018, December 12). Newfoundland and Labrador Corrections and Community Services: Deaths in Custody Review. Department of Justice and Public Safety. St. John's, Newfoundland. Retrieved from https://www.justice.gov.nl.ca/just/publications/pdf/Death_Custody_Review.pdf

¹⁹ McKenzie-Sutter, H. (2019, September 17). Families launch claims against N.L. government over deaths in custody. *Global News*. Retrieved from <https://globalnews.ca/news/5914721/families-launch-claims-against-n-l-government-over-deaths-in-custody/>

²⁰ Robinson, D., Porpino F. and Simourd L. (1993). The influence of Career Orientation on Support for Rehabilitation of Correctional Staff. *The Prison Journal* 73(2):162-177

prisoner dynamics; specifically, officers felt that as prisoners were aware that segregation is declining as an option, they are engaging in more confrontational behaviours with staff. Of course, whether or not segregation operates as a deterrent to compromising behavior is not empirically known; what is notable here is how officers' perceptions of safety are linked to the ability to use segregation to promote personal and institutional safety (e.g., to isolate a prisoner who has drugs in a cavity before the drugs infiltrate a unit, or who requires eyes on surveillance due to risk of self-harm, or who is heated after an incident). In addition, officers expressed a deep-seated fear of being reprimanded and held responsible if anything were to escalate on a unit—or if they were to use segregation in a way later deemed unwarranted. Thus, any action engaged in felt potentially 'risky', leaving officers vulnerable to consequences. The overarching positioning is simply that eventually (but rather soon) "someone is going to get hurt" and correctional officers will be held at fault; possibly criminally charged and convicted.

Segregation, however, does not appear to have a singular meaning among officers, evidenced by views regarding its adverse consequences. Officers felt segregation could aggravate an already negative situation and noted extended periods of idle time in isolation was problematic. It is not to say that officers are or are not supportive of changing legislation and policy around segregation. Their key concerns remains their perceived exclusion from decisions around policy reforms and that their perceptions and experiences are discounted, as well as their unanswered questions regarding how to deal with prisoners with complex needs in the context of outdated facilities where alternative housing options are few. Provincial institutions in many cases appear to lack the infrastructure, funding, resources, and space for alternative housing options, such as the SIU models currently being implemented federally. It remains unclear, given infrastructural and resource restrictions, if and how provinces might incorporate components of the federal model within provincial institutions or if they choose to follow suit.

The adverse consequences of the use of segregation have been well-documented.^{21,22,23,24,25,26,27} While segregation reforms are undeniably necessary, the institutional implications of reformation are yet to be known. Segregation reform will impact the dignity, rights, and safety of those employed and living in prison; as much as possible, reforms should reflect an understanding of the varied social meanings associated with segregation so as to attempt to mitigate unintentional effects that change may bring. While segregation is commonly understood in a singular way (largely synonymous with disciplinary or punitive segregation), the social meanings attributed to segregation units are varied and dynamic, often shaped by the broader institutional environment and, at times, counter to policy intentions.

²¹ Conley, A. (2013) Torture in US Jails and Prisons: An Analysis of Solitary Confinement under International Law. *Vienna Journal on International Constitutional Law*, (7): 415-425.

²² Gordon, S. E. (2013) Solitary Confinement, Public Safety, and Recidivism. *University of Michigan Journal of Law Reform* 47(2): 495-528.

²³ Grassian, S. (2006) Psychiatric Effects of Solitary Confinement. *Journal of Law and Policy* 22: 325-382.

²⁴ Haney, C. (2003) Mental Health Issues in Long-Term Solitary and "Supermax" Confinement. *Crime and Delinquency* 49(1): 124-156.

²⁵ Jackson, M. (1983) *Prisoners of Isolation: Solitary Confinement in Canada*. University of Toronto Press: Toronto, Canada.

²⁶ Wright, R. G. (2014) What (Precisely) Is Wrong with Prolonged Solitary Confinement. *Syracuse Law Review* (64): 297-306.

²⁷ Zinger, I., and Wichmann, C. (1999) The Psychological Effect of 60 Days in Administrative Segregation. *Research Branch Correctional Service Canada* 43(1): 47-83.

Human Rights and Corrections

By Professor Michael Jackson (QC)

*Emeritus Professor of Law at the Faculty of Law,
University of British Columbia, Canada.*

Note: We are thankful to Professor Jackson for permitting us to publish this excerpt from his 2009 publication, [*A Flawed Compass: A Human Rights analysis of the Roadmap to Strengthening Public Safety*](#)



We are not the first to make the point that it takes vigilance and courage, both individual and collective, to ensure that human rights are protected at those points where they become most vulnerable. Within Canada, that vulnerability is nowhere more evident than inside penitentiaries. It is because we believe that respect for human rights is fundamental to any “transformation” of Canadian corrections that we begin our commentary with the international and domestic human rights framework.

In the material that follows we will try to demonstrate that human rights is not something that needs to be “balanced” against prison discipline and control. Rather, it is something through which prison discipline and control is exercised in a professional manner. Discipline and control that is not consistent with the inherent human dignity, and the rights that give legal meaning to that dignity, is simply the naked exercise of power and as such is inevitably abusive. Legitimate discipline and control is necessary but can only be effective in promoting positive change in the individual and avoid being self-defeating, if it is inherently moral and justifiable.²⁸ Promoting and respecting human rights is not about

²⁸ John Howard, whose 1777 seminal work *The State of the Prisons in England and Wales* inspired the idea of the modern penitentiary as a humane response to crime, in his proposals for reform of the prisons, was insistent that punishment, in order to be effective, must maintain its moral legitimacy in the eyes of both the public and the offender. For Howard the most painful punishments and those that aroused the greatest guilt were those that observed the strictest standards of justice and morality. See <http://justicebehindthewalls.net/book.asp?cid=765&pid=816>; and Michael Ignatieff, (1978). *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1705-1850*. p.72.

being soft, it is about being decent. Respect for human rights is a necessary condition for the exercise of correctional authority.

On December 10, 2008 Canada joined other nations in marking the 60th anniversary of the Universal Declaration of Human Rights. We did so with the knowledge that, as much as any country, we have endeavoured to live up to the ideals and standards set by this statement of fundamental human rights, and with added pride that a Canadian, John Humphrey, played a leading role in drafting and guiding the Declaration through the United Nations in 1948. Article 1 of the Universal Declaration affirms that "All human beings are born free and equal in dignity and rights."²⁹ As Max Yalden, former Chief Commissioner of the Canadian Human Rights Commission and a commissioner with the United Nations Human Rights Commission, stated on the occasion of the 50th anniversary of the Declaration, this "fundamental statement of humanity's goals and aspirations for a fairer and more humane future, is nowhere more applicable than in the world of corrections."³⁰ Mr. Yalden went on to assert that "no moment in history could be more appropriate" for the Correctional Service of Canada to re-commit itself to respecting the provisions of the Declaration.

The significance of the Universal Declaration and the international instruments it has inspired is clearly set out in the 1997 Report of the Working Group on Human Rights, Human Rights and Corrections: A Strategic Model. The working group was commissioned by CSC and chaired by Mr. Yalden. The report explains the international sources of the human rights guarantees and protections of the Canadian *Charter* and the *CCRA*:

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly on December 10, 1948. Although it does not have the status of a binding international covenant, it is widely regarded as determining conventional international law and as the primary instrument for protecting the "inalienable," "inherent" and "fundamental" dignity of the human person. It

²⁹ G.A. res.217A III, U.N. Doc A/810 at 71 (1948), reprinted in [1948] U.N.B. 465.

³⁰ Maxwell Yalden, (November 1998). *Canada, the CSC and Human Rights*. Correctional Service of Canada: Let's Talk, Vol. 23, no. 4, p. 13.

underlies the many subsequent UN covenants and conventions that have shaped international human rights law, to which Canada is a party, in particular the International Covenant on Civil and Political Rights and the Convention Against Torture. These, among other things, provide that:

"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person" (art. 10, International Covenant on Civil and Political Rights [ICCPR]);

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" (art. 7, ICCPR);

"The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation" (art. 10(3), ICCPR).³¹

The Universal Declaration and the International Covenant have been influential in shaping Canadian domestic law, and many of their provisions are the source of the constitutional protections entrenched in the [Canadian Charter of Rights and Freedoms](#). As we will see, the [Corrections and Conditional Release Act](#) was drafted to ensure that the correctional legal regime was consistent with the *Charter*, and thus it is possible to trace a lineage through the four documents. As the Working Group concluded:

. . . One must acknowledge what the CCRA does do to lay out a correctional regime that will be respectful of Canada's obligations in human rights matters . . . Over and above the general right to safe and humane custody, sections 3 and 4 of the Act specifically identify: the right to be dealt with in the least restrictive way; the residual rights which are those of any member of society, except

³¹ Maxwell Yalden, (December 1997). *Human Rights and Corrections: A Strategic Model*. Correctional Service of Canada: Working Group on Human Rights. (Hereafter, "The Yalden Report").

those necessarily restricted or removed by virtue of incarceration; the right to forthright and fair decision-making, and to an effective grievance procedure; the right to have sexual, cultural, linguistic and other differences and needs respected; and the right to participate in programs designed to promote rehabilitation and reintegration. These broad principles can be readily traced back to their international and constitutional roots.³²

Andrew Coyle, a former governor in the Scottish prison system and the Director of the International Center for Prison Studies at King's College, London, has summarized the implications for the treatment of prisoners of the international instruments that require States to respect the inherent dignity of the human person. In *A Human Rights Approach to Prison Management*, he writes:

People who are detained or imprisoned do not cease to be human beings, no matter how serious the crime of which they have been accused or convicted. The court of law or other judicial agency that dealt with their case decreed that they should be deprived of their liberty, not that they should forfeit their humanity...

Their humanity extends far beyond the fact that they are prisoners. Equally, prison staff are human beings. The extent to which these two groups recognize and observe their common humanity is the most important measurement of a decent and humane prison.

³² The Yalden Report, p. 24

FEATURED TOPIC: STRENGTHENING CORNERSTONES

Where such recognition is lacking there will be a real danger that human rights will be abused.³³

In Canada we have taken much pride in committing this nation to the advancement of human rights. The 1982 *Charter of Rights and Freedoms* is the legal lodestar in the entrenchment of international human rights protection in our own Constitution.³⁴ The overarching human right to dignity does not stop at the prison door and, as the Supreme Court has made clear, the *Charter* applies with full force to the imprisoned. Entrenching human rights in the Constitution is one thing: translating the right to human dignity in the everyday life of a prison is quite another. The prison environment, more so than any other within the boundaries of the State, with its authoritarian structure, its surveillance and supervision of every aspect of a person's life, its daily rituals of count and search, is at constant odds with the attributes of dignity, individuality and liberty that most of us experience. The potential for abuse of human rights is ever present. This has been well expressed by Ivan Zinger, formerly a human rights officer for CSC and now Executive Director of the Office of the Correctional Investigator:

In a correctional context, every aspect of the prisoner's life is heavily regulated by correctional authorities. Correctional authorities make thousands of decisions every day that affect prisoners' fundamental rights (e.g., use of force, segregation, searches, transfers, visiting). Routine daily activities, such as

³³ Andrew Coyle, (2002). *A Human Rights Approach for Prison Management: Handbook for Prison Staff*. London: King's College, International Center for Prison Studies, p. 31-33. Dr. Andrew Coyle is one of the most respected international experts on prison management and has extensive international experience on prison matters, having visited prison systems in many countries as an expert consultant for bodies such as the United Nations and the Council of Europe.

³⁴ See the statement of Chief Justice Brian Dickson In *Reference Re Public Service Employee Relations Act (Alberta)*, [1987] 1 S.C.R. 313: "Since the close of the Second World War, the protection of the fundamental rights and freedoms of groups and individuals has become a matter of international concern. A body of treaties (or conventions) and customary norms now constitutes an international law of human rights under which the nations of the world have undertaken to adhere to the standards and principles necessary for ensuring freedom, dignity and social justice for their citizens. The Charter conforms to the spirit of this contemporary international human rights movement, and it incorporates many of the policies and prescriptions of the various international documents pertaining to human rights." (p. 348).

whether prisoners can contact family and friends, whether and how they can practice their religion or access medical services, and when they can eat and sleep, are all regulated by correctional authorities. Without recognition that the business of corrections is all about promoting and monitoring respect for human rights, preventing human rights violations, and detecting and remedying human rights violations, systemic abuses of power are inevitable.³⁵

In 1996 Justice Louise Arbour, in her report on abuses of human rights at the Prison for Women, concluded that the enactment of the *CCRA*, the existence of internal grievance mechanisms, and the existing forms of judicial review had not been successful in developing a culture of rights within the Correctional Service of Canada. Her report led to the new Commissioner of Corrections, Ole Ingstrup, setting up of the Working Group on Human Rights. In his 1997 Report Mr. Yalden alerted the Service to the importance and challenges of implementing a human rights agenda within Canadian penitentiaries:

*It is particularly important to recognize the fundamental nature of Canada's commitments in light of the fact that some members of Canadian society, including some CSC employees, do not necessarily share the values underlying the Service's human rights framework. In that context, it is essential to make it clear that the principles and provisions incorporated in the *CCRA* derive from universal human rights standards supported by all the advanced democracies with which Canada compares itself, that the Service holds itself accountable to those standards, and that it is actively committed to making them work in federal correctional institutions.³⁶*

³⁵ Ivan Zinger, (2006). *Human rights compliance and the role of external prison oversight*. Canadian Journal of Criminology and Criminal Justice, Vol. 48(2), p. 127-140.

³⁶ The Yalden Report, p. 8

FEATURED TOPIC: STRENGTHENING CORNERSTONES

In identifying a strategy for improving the CSC's communication of its mandate regarding human rights to the general public, the Yalden Report acknowledged that the Service was "caught in a cross-fire between those who perceive the correctional system as soft on criminals and those who worry that incarceration further degrades them, or fails to assist them in becoming more positive members of society".³⁷ Based on the results of a 1996 CSC staff survey, the Report also observed that a substantial proportion of staff either do not accept the rationale for their professional conduct or question its effectiveness. The Report concluded:

*If staff are to see themselves as part of a lawful and socially constructive enterprise, they not only need a firm grasp of clear and practical professional guidelines, they must also have some personal understanding of why such rules are lawful and the social purpose that they serve.*³⁸

The Report offered what it saw as the best argument for observing human rights in a correctional context:

*[It] is not merely that [these rules] are required by international convention or domestic law, or even that they are intrinsically more civilizing, but that they actually work better than any known alternatives -- for inmates, for staff and for society at large. By preserving such fundamental social rules within the institutional setting, so the argument goes, one improves the odds of eventually releasing a more responsible person.*³⁹

³⁷ The Yalden report, p. 36

³⁸ The Yalden Report, p. 37

³⁹ The Yalden Report, p. 40

FEATURED TOPIC: STRENGTHENING CORNERSTONES

It cannot be overemphasised that respecting human rights is not a weak-kneed “soft on criminals” line but the most principled and most effective form of corrections. As expressed by Andrew Coyle in *A Human Rights Approach to Prison Management*:

Staff behavior and the humane and dignified treatment of prisoners should underpin every operational activity in a prison. This is not merely a question of human rights principles. In operational terms is also the most effective and efficient way in which to manage a prison.⁴⁰

⁴⁰ Andrew Coyle, (2002). *A Human Rights Approach to Prison Management*. International Centre for Prison Studies, p.33.

Featured Jurisdiction: Argentina

Argentina is a country with a federal system, which involves the decentralization of power to 24 provinces, plus the Autonomous City of Buenos Aires. Just like the National State, each of the provinces has its own Legislative, Executive and Judiciary Powers.



In the prison sector, the federal structure means that each province has its local penitentiary system, and the Federal State has the Federal Penitentiary Service. The Federal Penitentiary System is comprised of 34 prisons located all over the national territory, with a higher concentration of penal institutions and inmate populations in the Metropolitan Area of Buenos Aires.

According to the latest penitentiary statistics available,⁴¹ as of December 2017 there were a total of 85,283 inmates in Argentina's prison system. Of these inmates, 37,586 were in prisons of the Penitentiary Service of the Province of Buenos Aires, and 11,861 were in federal prisons, which is the second largest jurisdiction, numerically speaking.

For More Information:

[Ministry of Justice and Human Rights](#)

⁴¹ National Criminal Policy Directorate for Criminal Justice and Legislation of the National Ministry of Justice and Human Rights, National Statistics System on Sentence Enforcement. *Annual Report of the Republic of Argentina 2017*. Retrieved from https://www.argentina.gob.ar/sites/default/files/informe_sneep_argentina_2017.pdf

SELECTED CONTRIBUTIONS: ARGENTINA

La Procuración Penitenciaria de la Nación⁴²: 25 years of work in defence of the rights of people deprived of freedom, and the prevention of torture.



By Francisco Mugnolo

*Procuración Penitenciaria de la Nación,
Republic of Argentina.*

Note: *As translated from the Spanish. If you would like the original, please request by email.*

Creation, legal mandate and powers of La Procuración Penitenciaria de la Nación

La Procuración Penitenciaria de la Nación (PPN) is a public institution of an autonomous nature included under the Nation's Legislative Authority by virtue of Law 25.875. The purpose of the PPN is to protect the human rights of persons deprived of liberty for whatever reason, who are under federal jurisdiction, which includes: police headquarters, alcaldías⁴³, and any other premises that may hold persons in detention. The role of the PPN also includes protecting the human rights of persons prosecuted or convicted by the national or federal justice system who may be confined in provincial institutions.

This organization was created in 1993 under Decree No. 1598 of the Executive Authority, and for 10 years was part of the Nation's Ministry of Justice. In 2003, the National Congress passed Law 25.875, which placed the PPN within the scope of national Legislative Authority and granted it complete autonomy and functional independence.

Moreover, the powers and responsibilities of the PPN were strengthened by the passage of Law 26.827, which created the *National System for Torture Prevention and Other Cruel, Inhuman or Degrading Treatment or Punishment*. The objective of this system is to guarantee all the recognized rights that aim to prevent and prohibit torture and other

⁴² The Prison Ombudsman's Office for the Republic of Argentina.

⁴³ These are custodial spaces in municipal government buildings, like city-hall jail cells.

SELECTED CONTRIBUTIONS: ARGENTINA

cruel, inhuman or degrading treatment or punishments as provided for under the National Constitution, under the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment* and under the Optional Protocol of this convention. This law provides for the participation of the PPN in two government bodies that are part of the National System for Torture Prevention: the National Committee for the Prevention of Torture (art. 11, par. b) and the Local Council of Local Mechanisms for the Prevention of Torture (art. 21). Specifically, article 32 of Law 26.827 states that the PPN, without prejudice to the other powers stipulated in Law 25.875, is intended to function as a mechanism for the prevention of torture under the terms and conditions of the *Optional Protocol of the Convention against Torture* (OPCAT), at all premises where detentions occur and that fall under national and federal authority.

The PPN has a lot of experience monitoring federal prisons as part of its mission to protect the human rights of persons detained in federal institutions, and over the last five years this mission has been expanded to include the monitoring of police headquarters, immigration detention premises, and reformatories for minors, among other things.

In addition to the power to carry out periodic visits to all federal penitentiary institutions and conduct confidential interviews with inmates, the PPN, as part of its investigations, has the jurisdiction to issue recommendations, request reports and documentation, and file criminal charges, lawsuits or other relevant judiciary actions, among other duties.

This oversight body has a central office, located in the City of Buenos Aires, and a network of Regional Delegations that give the work of the PPN scope over the entire Argentinean territory. To develop the aforementioned activities, the PPN has professionals in various disciplines such as lawyers, sociologists, physicians and psychologists, who work together in a coordinated way.

Special attention to vulnerable groups

The PPN pays special attention to sub-populations that may be more vulnerable to the impacts of rights violations or the neglect of certain needs during incarceration. The Gender and Sexual Diversity Team highlights the complexities involved in the imprisonment of women and LGBT+ people, as the disregard of their specific needs may result in violations of their human rights. In particular, it is important to adopt measures regarding the steady increase in female inmates, in most cases due to drug-related crimes,

SELECTED CONTRIBUTIONS: ARGENTINA

since they are the most vulnerable link in the trafficking chains and end up being criminalized.

Similarly, the incarceration of young adults between 18 and 21 years of age in federal prisons deserves particular attention, as well as the deprivation of freedom for children and adolescents in closed-system socio-educational centres. The PPN started to visit the detention premises of closed-system socio-educational centres after a decision by the Nation's Supreme Court of Justice in April 2016 that allowed their admission into these types of institutions. The oversight provided has revealed high levels of violence at the time of the arrest/detention by security forces, and in closed-system centres, personal search procedures are also reportedly problematic.

Foreign persons in prison require a specific approach focused on the vulnerability associated with displacement for persons who did not live in Argentina prior to their arrest, have no emotional ties there, and also had problems with expulsion arrangements. Likewise, the detention of migrants merits a special approach to administrative processes for expulsion, that is, unrelated to criminal cases, in which case the lack of public information provided by the National Directorate for Migrations should be highlighted.

Lastly, persons with physical or mental disabilities who are incarcerated suffer from confinement to a greater extent, given that penitentiaries lack the specific infrastructure and programs to address their specific needs, and this problem needs to be addressed urgently.

Recognized work

We would like to highlight the 278 recommendations made by the PPN from 2006 to the present, which have revealed violations of the rights of persons in custody and recommended the adoption of specific measures to avoid future recurrences.

In a similar vein, significant achievements have been made in the field of strategic litigation, especially through corrective Habeas Corpus actions that seek to end rights violations in civil rights matters and provide access to economic, social and cultural rights. Through this instrument, we have set very noteworthy precedents in decisions handed down by various courts and tribunals, whether they are trial courts or Federal Courts of Appeal in various jurisdictions, National and Federal Criminal Courts or the National Supreme Court of Justice.

SELECTED CONTRIBUTIONS: ARGENTINA

The PPN also has the power to propose legislative reforms to guarantee the rights of persons deprived of freedom. On this basis, several draft laws have been tabled before the National Congress on topics such as house arrest, jail capacity and overpopulation management, transfer of inmates, personal search procedures and requisition of facilities, personal documentation and the right of convicts to vote.

The PPN periodically provides an account in its Annual Reports⁴⁴ on the status of torture in federal institutions, based on the implementation of a *Procedure for the investigation and documentation of cases of torture and mistreatment*, and on a database to record the results obtained. The purpose of this Procedure, which was established on the basis of the principles and criteria described in the Istanbul Protocol,⁴⁵ was to set guidelines for the intervention of the PPN when faced with any case of torture or mistreatment in a federal institution that may have been brought to its attention. Cases of torture and mistreatment and other cruel, inhuman and degrading treatment resulting in a criminal complaint are investigated and documented, and also those cases in which the person under detention informs the PPN of torture or mistreatment suffered but expresses his or her decision to not file a criminal complaint, in which case the PPN will conduct an investigation without disclosing their identity. The PPN's intervention includes the study of the case by means of a confidential interview, a medical exam and the photographic record of the injuries. If the victim gives their consent to file a criminal complaint, all of this will be presented as evidence at the hearing. For the purposes of the aforementioned procedure, the *Database of cases of torture and other mistreatment investigated and documented by the PPN* was also created, for the recording and statistical processing of the results obtained. Over the past

⁴⁴ See Annual Report 2012. *The status of Human Rights in Federal Penitentiaries of Argentina*, Buenos Aires, 2013, 39-65; Annual Report 2013. *The status of Human Rights in Federal Penitentiaries of Argentina*, Buenos Aires, 2014, 43-66; Annual Report 2014. *The status of Human Rights in Federal Penitentiaries of Argentina*, Buenos Aires, 2015, 41-66; Annual Report 2015. *The status of Human Rights in Federal Penitentiaries of Argentina*, Buenos Aires, 2016, 124-144; Annual Report 2016. *The status of Human Rights in Federal Penitentiaries of Argentina*, Buenos Aires, 2017, 147-163; Annual Report 2017. *The status of Human Rights in Federal Penitentiaries of Argentina*, Buenos Aires, 2018, 250-268; and Annual Report 2018. *The status of Human Rights in Federal Penitentiaries of Argentina*, Buenos Aires, 2019, 125-136.

All of the above available at www.ppn.gov.ar

⁴⁵ *Manual for the investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment*. Office of the United Nations High Commissioner for Human Rights, United Nations, New York and Geneva, 2004. Retrieved from, <http://www.ohchr.org/Documents/Publications/training8Rev1sp.pdf>

SELECTED CONTRIBUTIONS: ARGENTINA

twelve years, 5,647 cases of torture and mistreatment have been investigated and documented.

However, when faced with the death of persons detained in federal penal institutions, the PPN conducts an administrative investigation aimed at identifying the responsibilities of the State, in order to help reduce the factors that cause deaths in custody, and this also helps create reliable and comprehensive records of deaths in custody under federal jurisdiction. Late 2018 marked the tenth anniversary of the application of the *Procedure for the investigation and documentation of deaths in prison* (Res. 169/PPN/08), which came into effect on January 1, 2009. Since the approval of the procedure, the PPN has investigated 425 deaths that occurred in federal prisons, 189 of which were violent.

International integration activities

The actions of the PPN at the international level revolve around reinforcing the process of integration, participation, commitment and interaction with partner organizations in the region and with international organizations promoting human rights. This work calls for a close collaboration with similar foreign institutions in order to share experiences and best practices and collaborate in matters which go beyond national borders. For this reason, participation in seminars, conferences, audits and activities in areas under the jurisdiction of the PPN is encouraged, with government institutions, NGOs and international organizations. The outcome of these activities will enable true outreach, work and participation in the international arena.

In fact, the PPN undertakes technical bilateral cooperation projects by means of el *Fondo Argentino de Cooperación Sur – Sur y Triangular*⁴⁶ that is part of Argentina's Ministry of Foreign Affairs and Worship, through which government experts work together to share, adapt and implement public policies for inclusive development, democratic governance, scientific and technical advances, and respect for human rights.

In the same way, the PPN develops projects with international financing, such as the TRAC Fund of the United Nations Development Programme and the Special Fund of the *Optional Protocol of the United Nations Convention against Torture* (the OPCAT Fund). Both funds provide for the financing of initiatives. The difference between them is that the former was developed within the framework of the program's Action Plan, which aims to strengthen

⁴⁶ Translation: *Argentine Fund for South-South and Triangular Cooperation*.

SELECTED CONTRIBUTIONS: ARGENTINA

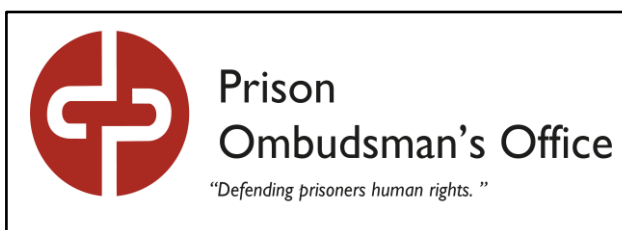
the capacity to comply with the targets of the Sustainable Development Goals (SDG); while the latter concerns resources aimed at implementing the recommendations issued by the Subcommittee on the Prevention of Torture (SPT) after there is a visit to a Member State.

What is just as important is when the PPN sends reports to international and regional organizations with regard to the situation of persons deprived of freedom in the country, taking into consideration progress and setbacks with respect to the recommendations that these organizations have made to the government.

The Republic of Argentina and the *Optional Protocol to the Convention against Torture* (OPCAT)

By **Procuración Penitenciaria de la Nación**

Republic of Argentina



Note: As translated from the Spanish. If you would like the original, please request by email.

In 2004, the Republic of Argentina was one of the first countries to ratify the *Optional Protocol to the Convention against Torture* (OPCAT).

After it ratified OPCAT, our nation assumed the obligation of institutionalizing a “National Mechanism for the Prevention of Torture” by mid-2007. In 2013, after a long process, National Law 26.827 was enacted, which created the *Sistema Nacional de Prevención de la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes*⁴⁷ (SNPT).

This Law provides for the integration of this system into a set of mechanisms for the prevention of torture that the provinces must establish in their jurisdictions, together with the PPN as “mechanisms for the prevention of torture in every place of detention under national or federal authority” (article 32).

Two additional bodies are in charge of ensuring consistency and coordination within the system: the National Committee for the Prevention of Torture (CNPT is its Spanish acronym), which is the system’s “governing” body (article 7); and the Federal Council of Mechanisms for the Prevention of Torture, whose most important function is to monitor and promote the effective operation of local mechanisms (article 21).

In 2017, the Joint Standing Committee of Congress of the Nation’s Ombudsman, under the chairmanship of Senator Marta Varela, made progress by appointing the ten CNPT

⁴⁷ Translated as, *National System for Torture Prevention and Other Cruel, Inhuman or Degrading Treatment or Punishment*.

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members that the National Congress must select based on the proposals made by non-governmental organizations (3 commissioners), the national Executive Authority (1 commissioner) and the main political blocs of both houses (6 commissioners). To this had to be added the Procurador Penitenciario (article 32) and two representatives of the local mechanisms to be appointed by the aforementioned Federal Council.

The CNPT finally commenced its duties on December 28, 2017, in the Arturo Illia Hall in the Honourable National Senate. The constituent act of this body was carried out there, and the 11 members of the Committee, appointed in accordance with the procedures established by Law 26.827, received their certificates.

After the formal investiture of the members, the first meeting of the body was held in camera, and on this occasion Dr. Jorge D' Agostino was appointed Chair of the entity.⁴⁸

As was expected, from that time on, the CNPT had to face a series of challenges inherent to its institutional mandate, its operational system and its plans for the next four years. It should be noted that the main functions of the CNPT include conducting inspection visits to places where there is deprivation of freedom; gathering and standardizing information on the CNPT as a whole; creating, implementing and coordinating a National Registry of Cases of Torture and a National Registry of Corrective Habeas Corpus Actions; designing and recommending actions for the prevention of torture and other mistreatment; and promoting the implementation of its recommendations by the competent authorities.

The CNPT commenced its duties on January 2, 2018. At its first meetings, the internal regulations of the CNPT were drafted and approved, and progress was made in establishing standards, action criteria (in accordance with the provisions of art. 7, par. F of Law 26.827), and "Guidelines for Inspections." An annual planning agenda and a first schedule of visits were also approved.

At the same time, in order to perform the duties set out in article 24 of Law 26.827, the CNPT convened the Federal Council of Local Mechanisms and held meetings with the five local bodies operating at the time (Chaco, Corrientes, Mendoza, Misiones and Salta), and with political authorities from several provinces.

⁴⁸ At the time of writing of this article, Dr. D'Agostino had resigned from the position for personal reasons, and his replacement had yet to be found.

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The members of the CNPT participated in a variety of activities and held meetings with a diverse group of stakeholders, for the purpose of publicizing the inauguration of this body, making people aware of its functions, and dealing with various issues of interest.

In this context, one of the objectives of the CNPT was to make contact with international institutions for the purpose of agreeing on cooperation and action plans, in accordance with the provisions of article 7 par. M of Law 26.827. Thus, in April 2018, a report was drafted and a meeting held with Nils Melzer, the UN's Special Rapporteur on Torture, with the objective of assessing the state of implementation of the government's duties with respect to compliance with the OPCAT. Similarly, a meeting was held with Birgit Gerstensberg, regional representative for South America at the UN High Commission for Human Rights (HCHR), in order to initiate a cooperative relationship between both organizations and with representatives of the United Nations Children's Fund (UNICEF) as well. Moreover, letters of introduction for the CNPT were sent to several embassies for the purpose of exploring future possibilities for cooperation and collaboration.

Furthermore, meetings were held with judicial officials from the national jurisdiction, such as the National General Ombudsman, Estela Maris Martínez; representatives of the Inter-institutional System for the Monitoring of Penitentiary Institutions; Mario Coriolano, the Appeals Ombudsman of the Province of Buenos Aires; and the Deputy Ombudsman of the Province of Buenos Aires along with the Secretary for the promotion of Human Rights from this Ombudsman Office. Also worth noting was the participation of one of the CNPT commissioners, Rocío Alconada Alfonsín, in the dialogue program [“Probemos Hablando” \[Let's try talking\]](#), coordinated by the PPN. The purpose of this initiative is to prevent mistreatment and violence among inmates themselves, through the use of speech, dialogue and meetings.

Academic Articles

Coyle, A., & Fair, H. (2018). A human rights approach to prison management: Handbook for prison staff (3rd Edition). London, UK: Institute for Criminal Policy Research Birkbeck, University of London.

Abstract

The Handbook is based on the internationally agreed standards for the use of imprisonment and conditions of detention and it provides guidance for prison staff as to their implementation. It demonstrates that as well as providing an appropriate framework for the management of prisons, the international standards can be very effective in operational terms. It provides a basis for good prison management which can be applied in every prison system in the world. [[Link to Article](#)]

Høidal, A. (2018). Normality behind the walls: Examples from Halden prison. *Federal Sentencing Reporter*, p. 58-66.

Abstract

The principle of normality—the idea that life inside prison should be as close as possible to life in the community—is one of the cornerstones of the modern Norwegian correctional system. However, Norway’s current and successful implementation of a correctional environment focused on normality and humane effectiveness in corrections is a relatively recent development. These policies were first employed in response to serious challenges that mirrored those still observed in other Western countries today. [[Link to Article](#)]

Liebling, A. (2011). Moral performance, inhuman and degrading treatment and prison pain. *Punishment & Society*, p. 530-550.

Abstract

Empirical research on the moral quality of life in prison suggests that some prisons are more survivable than others. Prisoners describe stark differences in the moral and

SELECTED ACADEMIC ARTICLES

emotional climates of prisons serving similar functions. The ‘differences that matter’ concern interpersonal relationships and treatment, and the use of authority, which lead to stark differences in perceived fairness and safety and different outcomes for prisoners, including rates of suicide. These identifiable differences between prisons in one jurisdiction may provide the beginnings of a framework for addressing the broader question of standards being set by the European Court of Human Rights. Concepts like ‘dignity’ and ‘humanity’ are difficult to operationalize and practise. Prisoners are articulate about them, however, and know the difference between ‘feeling humiliated’ and ‘retaining an identity’. The worlds of ‘moral measurement’ and ‘human rights standards’ in penology should be brought closer together in a way that deepens the conversation about prison life and experience. [[Link to Article](#)]

McCrudden, C. (2008). Human dignity and judicial interpretation of human rights. *The European Journal of International Law*, p. 655-724.

Abstract

The Universal Declaration on Human Rights was pivotal in popularizing the use of ‘dignity’ or ‘human dignity’ in human rights discourse. This article argues that the use of ‘dignity’, beyond a basic minimum core, does not provide a universalistic, principled basis for judicial decision-making in the human rights context, in the sense that there is little common understanding of what dignity requires substantively within or across jurisdictions. The meaning of dignity is therefore context-specific, varying significantly from jurisdiction to jurisdiction and (often) over time within particular jurisdictions. Indeed, instead of providing a basis for principled decision-making, dignity seems open to significant judicial manipulation, increasing rather than decreasing judicial discretion. That is one of its significant attractions to both judges and litigators alike. Dignity provides a convenient language for the adoption of substantive interpretations of human rights guarantees which appear to be intentionally, not just coincidentally, highly contingent on local circumstances. Despite that, however, I argue that the concept of ‘human dignity’ plays an important role in the development of human rights adjudication, not in providing an agreed content to human rights but in contributing to particular methods of human rights interpretation and adjudication. [[Link to Article](#)]

SELECTED ACADEMIC ARTICLES

Zinger, I. (2006). Human Rights Compliance and the Role of External Prison Oversight. *Canadian Journal of Criminology and Criminal Justice*, p. 127 – 140.

Abstract

Compliance with human rights obligations increases, though it does not guarantee, the odds of releasing a more responsible citizen. In essence, a prison environment respectful of human rights is conducive to positive change, whereas an environment of abuse, disrespect, and discrimination has the opposite effect: Treating prisoners with humanity actually enhances public safety. Moreover, through respecting the human rights of prisoners, society conveys a strong message that everyone, regardless of their circumstance, race, social status, gender, religion, and so on, is to be treated with inherent respect and dignity. [[Link to Article](#)]

PRISON OMBUDS...IN THE NEWS!

Prison Ombuds...in the News!

DEBORAH GLASS



Young people being 'damaged' not rehabilitated by solitary confinement in Victorian prisons, report finds.
[\[Bridget Rollason, ABC News, Sep. 5, 2019\]](#)

PETER CLARKE



Prisons inspector invokes emergency powers at Bristol jail.
[\[Helen Warrell, Financial Times, June 12, 2019\]](#)

FRANCISCO MUGNOLO



Despite the emergency declaration, there are more and more prisoners in federal prisons.
[\[Leonardo Scannone, La Nacion, June 12, 2019\]](#)

PETER BOSHIER



Ombudsman: Northland's Ngawha Prison conditions breach Convention against Torture.
[\[Lois Williams for Radio New Zealand, Aug. 20, 2019\]](#)

LESLEY CARROLL



Prisoners' 'lives at risk' after jail release
[\[Niall McCracken, BBC News, Sep. 8, 2019\]](#)

IVAN ZINGER



Canada's investment in prison system isn't bringing results, watchdog reports.
[\[Patrick White, The Globe and Mail, Apr. 25, 2019\]](#)

EVENTS CALENDAR

Events

- ICPA 21st AGM and Conference / Oct. 2019 / [Details](#)
- 2nd European Conference on Prison Health / Oct. 2019 / [Details](#)
- International Criminology Conference / Oct. 2019 / [Details](#)
- Canadian Criminal Justice Association Congress / Nov. 2019 / [Details](#)
- National Conference on Higher Education in Prison / Nov. 2019 / [Details](#)
- Australian & New Zealand Society of Criminology Conference / Dec. 2019 / [Details](#)
- Global Youth Justice Conference / Dec. 2019 / [Details](#)
- National Assoc. for Civilian Oversight of Law Enforcement* / Mar. 2020 / [Details](#)
- Howard League Conference / Mar. 2020 / [Details](#)
- 3rd International Correctional Research Symposium / May 2020 / [Details](#)
- ICPA 22nd AGM and Conference / Oct. 2020 / [Details](#)
- American Correctional Association / Winter 2020 / [Details](#)

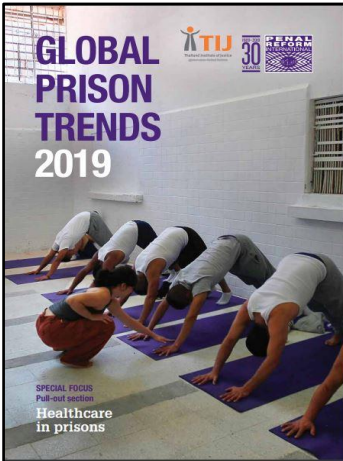


***Special Announcement!**

National Association for Civilian Oversight of Law Enforcement (NACOLE) Academic Symposium at the University of Texas on March 6, 2020.

[*New Frontiers in Independent Oversight of Jails, Prisons, and Police.*](#)

New Publications!

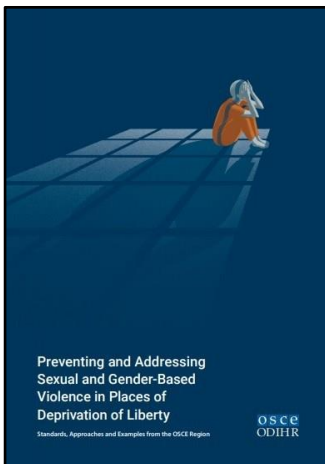


[Global Prison Trends 2019](#) (May 2019)

Penal Reform International

Authors: Vicki Prais and Frances Sheahan.

“*Global Prison Trends 2019* is the fifth edition in PRI’s annual flagship *Global Prison Trends* [series](#) which identifies topical developments and challenges in criminal justice, and prison policy and practice.” [\[Source\]](#)



[Preventing and Addressing Sexual and Gender-Based Violence in Places of Deprivation of Liberty](#) (August 2019)

Published by the OSCE Office for Democratic Institutions and Human Rights (ODIHR)

Authors: Digard, L., Vanko, E., & Sullivan, S.

“The purpose of this publication is to improve the understanding of sexual and gender-based violence on the part of state actors and civil society, including an understanding of how such violence manifests in places of deprivation of liberty. It also identifies many of the factors that increase the

vulnerability of persons deprived of their liberty and aims to contribute to the reduction and eventual elimination of sexual and gender-based violence in places of deprivation of liberty. The publication is primarily intended for policymakers, lawmakers and practitioners from criminal justice systems, including lawyers, prosecutors, judges and anyone else involved in arresting, investigating, interrogating or detaining suspects, those accused of a crime and prisoners or detainees.” [\[Source\]](#)

NEW PUBLICATIONS



[Online Course on CPT Standards](#) (Sep. 2019)

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Although this is not, strictly speaking, a publication, we thought that it would be of general interest to our readership.

“The purpose of the Council of Europe [HELP course on CPT standards](#) is to familiarise users with the CPT’s key standards concerning the five most important places of deprivation of liberty: police stations, prisons, immigration detention facilities, psychiatric establishments and social care homes.” [\[Source\]](#).