

REPORTS AND DOCUMENTS

Protecting people deprived of their liberty

Why should the ICRC care about detainees?

Whatever the reason for their detention, people deprived of their liberty are, by definition, vulnerable. They have been taken out of their normal environment and are no longer allowed to manage their own lives.

How vulnerable they are depends on a number of factors, including their individual characteristics (sex, age, etc.), the general situation in which they are detained, the reason for their detention, the stage they are at in any judicial or administrative process, and by whom they are being held.

In addition, systemic shortcomings in facilities, procedures and processes often affect all detainees to some degree, regardless of other factors. For example, in the chaos of armed conflict, detention systems may be badly disrupted or may have to be improvised. And for people detained under criminal law (which accounts for the vast majority of detainees worldwide), the judicial and prison systems are often unable to cope with the numbers, and alternatives to detention barely exist.

The humane treatment of detainees is made even more challenging in prisons that are neglected, overcrowded or in the grip of prison gangs.

In addition, many authorities impose severe restrictions on detainees, and are increasingly resorting to segregation and isolation.

Our long-standing experience

Guided by the Fundamental Principles of the International Red Cross and Red Crescent Movement (the Movement), in particular humanity, impartiality,

neutrality and independence, the International Committee of the Red Cross (ICRC) has acted to improve the conditions of detention and treatment of people deprived of their liberty since 1870.

Prompted by deep concern about their situation, we started visiting prisoners of war in the First World War. We did so on our own initiative, but with the consent of the warring parties. The ICRC's objective was to encourage the warring parties to improve the prisoners' living conditions and to enable the prisoners to tell their families how they were. The processes for visiting prisoners and sending personal information were later developed and codified in international humanitarian law in the 1929 and 1949 Geneva Conventions and the latter's 1977 Additional Protocols.

The ICRC's detention-related activities have progressively evolved from a monitoring role during armed conflicts to a broader range of activities that seek to help individuals deprived of their liberty in a variety of situations and places of detention.

Our goals

International law stipulates that detaining authorities must ensure that any detainees under their jurisdiction are treated humanely – i.e., with the respect due to their inherent dignity and value as human beings. This obligation could be seen simply to entail the preservation of life and health, but in fact humane treatment requires much more than that.

The ICRC's role is to ensure that detainees' dignity and physical integrity are respected, that they are treated in accordance with international humanitarian law and other applicable laws and standards, and, whenever necessary, to help detaining authorities fulfil their obligations.

We work to prevent and put an end to violations of humanitarian law and other applicable laws, and seek to resolve other detention issues of humanitarian concern. We do so from the time of arrest or capture until release, and in certain cases until the consequences of imprisonment have significantly diminished after release. We focus on:

- ending and preventing summary executions and forced disappearances;
- ending and preventing torture and other forms of ill-treatment;
- ensuring that living conditions in detention are decent and ensuring the physical and psychological integrity of detainees, in particular by guaranteeing access to food, drinking water, space, shelter and adequate health care and hygiene in a safe environment;
- restoring and maintaining links between detainees and their relatives and promoting the maximum possible contact between them throughout the period of detention;
- ensuring that detainees may exercise their rights and enjoy due process of law, including the judicial guarantees and procedural safeguards designed to prevent arbitrary detention; and

- contributing to the rehabilitation of released detainees (this most frequently involves addressing medical or psychological issues arising from ill-treatment and overcoming practical challenges faced in reintegrating fully into their communities).

Detainees of particular concern

All detainees are potentially of concern to the ICRC, but we will get involved primarily where people are arrested in connection with armed conflict or other situations of violence. Such detainees, given their real or supposed allegiance to the opponents of the detaining authority, are often at greater risk of ill-treatment. In addition, the circumstances of detention may be more chaotic and involve many different types of authority that lack the will or the resources to fully meet their responsibilities.

The detainees concerned are:

- prisoners of war and civilian internees held by a party to an international armed conflict, as well as civilians held by the occupying power in occupied territories, who are specifically protected by the Third and Fourth Geneva Conventions of 1949 and their first Additional Protocol of 1977;
- individuals held in relation to a non-international armed conflict by the government or a non-State armed group party to this conflict; and
- individuals held in connection with other situations of violence, such as political or social unrest.

Individuals held in relation to a non-international armed conflict or another situation of violence are often mixed with detainees held for other reasons. The latter group of detainees may be adversely affected by this, or all detainees may face the same problems because it is the system itself that is dysfunctional. As a result, the ICRC looks at the living conditions of all detainees held together. We target first and foremost problems of serious humanitarian concern, even if they affect detainees other than those who initially prompted our involvement. This is because it would be contrary to our Fundamental Principles of humanity and impartiality to address the needs of one group of people when another might have identical, or even greater, need of help.

Regardless of the reason for their detention, vulnerable groups such as children, women, foreigners, and wounded, sick and disabled detainees are given special attention, including when they are detained in relation to their immigration status.

Based on specific agreements, the ICRC also monitors the situation of detainees held by the United Nations (UN) or regional peacekeeping forces and those held under the authority of or sentenced by international courts (International Tribunal for the former Yugoslavia, International Tribunal for Rwanda, Special Court for Sierra Leone, International Criminal Court).

Our approach

The welfare of individuals deprived of their liberty is the starting point for the ICRC's activities. We seek to ensure that these individuals live in decent conditions and receive humane and fair treatment in accordance with applicable laws and standards.

This is done through interdependent and complementary activities, namely:

- assessing what detainees need and the problems affecting them, essentially through direct, first-hand experience acquired during visits to places of detention;
- analyzing the causes of these problems in relation to detention systems;
- taking into consideration the views of the people in charge and having confidential discussions on possible solutions at all levels of the hierarchy; and
- deciding on our strategy and carrying out our humanitarian activities within a constructive working relationship with the authorities.

The ICRC's approach to detention issues is founded on having direct access to people in the place where they are being held and fostering a constructive and well-informed dialogue with those in charge.

Assessing detainees' needs

The ICRC works hard to assess and understand what detainees need and what problems are affecting them.

We develop this understanding through visits and by looking at how the detention system works overall to find out what might be causing problems and what sustainable solutions could be put in place.

We look at the country's legal, political, cultural and social background; the roles, organization, policies and resources of those who hold detainees; the security apparatus and chains of command; the criminal justice system and public services such as health, water and energy; and how all the different authorities interact.

The ICRC tries to understand the authorities' situation and point of view, and their willingness and/or ability to address the problems at hand. When considering how we should respond to what we find out, we distinguish between, on the one hand, incapacity, negligence and omission and, on the other, behaviour that intentionally affects the physical and psychological integrity and dignity of detainees.

The information we gather comes from various sources, and we take into account its varying quality and reliability. Key to gathering information are visits to places of detention and direct contacts with detainees, management and staff. We complete our assessments by talking to members of the authorities in the police, military, judiciary, prison authority and health authority, as well as, where

appropriate, lawyers, families of detainees, armed groups, civil society groups and other relevant individuals and organizations.

Developing this broad and holistic understanding of the issues is essential for us to build an effective, practical and sustainable humanitarian response. The assessment also makes it possible to identify the degree of overlap between the ICRC's humanitarian concerns and the authorities' main areas of interest and opportunity, providing an entry point for constructive dialogue. The assessment is regularly reviewed and updated to take into account any changes in conditions that could require a revision of the ICRC's strategy.

Visits to places of detention

Regular visits to detention facilities are a key component of the ICRC approach. They are essential to understanding how detention facilities function and to identifying possible deficiencies.

We make sure we are able to have private conversations with detainees during these visits. For many detainees, these visits and private conversations are a recognition of their existence and dignity as human beings. Talking one-on-one is also the only way to find out how they see their situation and problems, what is important to them and what they think about possible solutions. It enables us to monitor how our work affects them, including possible harmful or perverse effects and how to prevent them. Visits also enable the ICRC, where necessary, to provide direct services to detainees, such as re-establishing contact with their families.

“I wish I could offer you more as a guest in my cell, but I have nothing. But having company here, in this dark and cold place, warms me inside. You are my first visitor since my arrest and I will never forget it.”

– *Detainee in interrogation centre, to ICRC delegate*

“You are the only ones I could possibly trust to enter my detention centre. It is not only the detainees who appreciate your visits, but my staff too; we can all trust you. You help me find solutions to the problems I face and you keep me and my staff in check; this is positive teamwork for the good of all.”

– *Director of a national-security detention facility*

Direct contact with the authorities in charge and their staff helps us to understand their situation, their motivation and their constraints and challenges – a prerequisite for building a relationship of trust and cooperation and for facilitating a constructive dialogue between them and the ICRC.

Terms and conditions for ICRC visits to detainees

The ICRC has a set of terms and conditions that are based on our long-standing experience of monitoring detainees' living conditions and treatment. Before we can carry out visits, we need to know that the detaining authorities understand and accept our terms. In particular, we insist on the following:

- The right to access all detainees at all stages of their detention, whatever status has been conferred on them by the authorities and wherever they are held.
- The right to have access to all premises used by and for the detainees.
- The right to speak freely and in private (i.e., without witnesses) with individual detainees of the ICRC's choice.
- The right to register detainees of the ICRC's choice. The registration of detainees allows the ICRC to follow up on the specific needs of selected individuals. For example, this might concern minors detained among adults, sick detainees, security detainees or individuals who fear or report abuses.
- The right to repeat our visits. The repetition of visits enables the ICRC to monitor the results of its action, to follow up the individual cases and ensure that its visits do not have undesirable consequences for detainees. The frequency of ICRC visits to a given place of detention depends on the needs identified by the ICRC.

These terms and conditions are enshrined in the Geneva Conventions of 1949 (Article 126 of the Third Geneva Convention and Article 143 of the Fourth Geneva Convention) and are the basis for all agreements worldwide. It is worth noting that a number of national, regional and international monitoring mechanisms have taken their inspiration from them, as have the UN's revised Standard Minimum Rules for the Treatment of Prisoners.

How does the ICRC carry out visits?

We do not make an exhaustive assessment of a place of detention each time we visit. Rather, we establish a set of objectives, then adapt the length of the visit and the composition of the visiting team accordingly. ICRC delegates follow a procedure proven to provide optimal conditions for collecting and analyzing the required information in an objective, holistic and independent manner.

Initial meeting with the detaining authorities

This is an opportunity for us to introduce ourselves and explain our objectives and visiting procedures. For the authorities, it is an opportunity to explain their main concerns, how the detention facility functions, what support they may need and any changes made since the ICRC's last visit. The authorities also answer our

questions about the legal status of detainees, transfers in and out, and any releases, amnesties, deaths or escapes that may have occurred. ICRC delegates should be authorized to consult the facility's registers. Members of the visiting team who specialize in areas such as health, maintenance or technical issues meet with their counterparts in those fields.

Tour of areas used by and for detainees

Together with staff from the detention facility, delegates conduct a tour of all areas used by and for detainees: sleeping quarters, kitchens, sanitary facilities, exercise yards, disciplinary cells, workshops, infirmaries, etc.

Private interviews with detainees and individual registration

ICRC delegates talk privately with groups of detainees or with selected individuals. They hold private interviews (i.e., without witnesses) with detainees that they themselves have selected, for as long as necessary, in a location of the delegates' choice. At this stage, delegates may record the names and personal details of detainees who they feel are in need of individual follow-up.

Final meeting with the authorities

During this stage of the visit, delegates submit their observations and preliminary conclusions to the detaining authorities. They give recommendations and take note of the authorities' responses. They also tell them how the ICRC intends to follow up on the visit.

Who is part of a visiting team?

The number of ICRC representatives making up a visiting team depends on a range of factors, including the number of detainees and the nature and size of the detention facility. Usually, the team is made up of one or more delegates who specialize in detainee visits. Our delegates may be accompanied by ICRC health professionals, water and sanitation engineers, nutritionists and/or interpreters. The local situation – including issues of language, nationality, culture or gender – is taken into account when forming the team.

ICRC doctors or other health professionals play an important role, particularly in the following crucial areas:

- They assess the entire health-care system for detainees. This means assessing the performance of the detaining authority's medical personnel, and their resources, independence and compliance with medical ethics and professional standards. ICRC doctors also look at whether the same standard of care is provided by the health-care systems inside and outside the facility and how the two are connected.

- They assess how living conditions in the place of detention affect detainees' health.
- They are the only members of the ICRC team with the right to access detainees' medical files.
- They may examine detainees who are ill or may have been tortured or subjected to other forms of ill-treatment.
- They can make recommendations for medical treatment.
- They determine, implement and monitor the ICRC's strategy in relation to health-care issues affecting detainees identified during visits.

Detaining authorities' agreement to ICRC involvement

The ICRC systematically reminds the parties to an international armed conflict of its right to access detainees in accordance with Article 126 of the Third Geneva Convention and Article 143 of the Fourth Geneva Convention. Only the practical arrangements of visits to detainees need to be agreed upon with the authorities.

If the conflict in question is not an international armed conflict, the ICRC must obtain authorization to carry out visits. Such authorizations can differ in scope and form. They can be given orally or in writing (e.g., a formal agreement signed by the authorities and the ICRC, an exchange of letters, or official orders issued to detaining facilities). The form of authorization chosen depends on the country's legal system, institutions and usual practice.

The ICRC often signs formal visiting agreements which, depending on the type of constitutional system, may be deemed to be international agreements and published in official national gazettes.

In all circumstances, we make it clear to the authorities what accepting the ICRC's visits means. Meetings are held to explain our working procedures, including with those directly in charge of detention. We also make clear what we will primarily be looking at: the treatment of detainees at all stages of their detention, their living conditions, their contact with relatives, and issues related to the due process of law.

It is important to note that accepting the ICRC's services does not amount to a situation being recognized as a non-international armed conflict and does not affect the legal status of the parties to a conflict. Nor do ICRC visits to detainees confer any particular legal status on those visited.

“We were finding it extremely difficult to manage the bloated prison population, so we opened our doors to anyone who wanted to help. After working with them for around ten years, the ICRC has been our greatest ally. In the beginning it was not easy: we had reservations about working with them, and were even a little suspicious. But time and experience have proven the value of our relationship. The ICRC's staff have been trustworthy partners in making a difference in the lives of detainees.”

– *Prison commissioner*

Whatever the format, visiting agreements must always grant the ICRC direct access to detainees in their place of detention, in accordance with the terms and conditions described above.

By accepting our visits, the authorities are expressing their desire that detainees should receive decent, humane treatment. It also shows that the authorities trust our experience, professionalism and competence and realize that, beyond our monitoring role, we can be a part of the solution to the problems affecting detainees, bringing valuable experience, insight and support.

Working with others

The ICRC is not alone in this field: a number of NGOs, human rights organizations, professional associations, private contractors, governments and intergovernmental bodies are also involved in detention-related programmes and activities. This requires coordination and offers opportunities for stronger, combined efforts towards humanitarian problems. We therefore take an active part in meetings with others to ensure our work is useful and complementary and has the maximum impact, and to avoid wastage and overlap.

We also work with other service providers, either combining our efforts with theirs as partners or making use of their expertise for a particular programme. This is always done with full transparency and the agreement of the authorities concerned. Technical subcontractors, for example, often carry out infrastructure projects, while local humanitarian or charitable organizations may be encouraged to work on a particular problem facing detainees. Mobilization of other national or international organizations, with the agreement of the authorities, can also be useful when additional resources or expertise are needed.

For reasons of acceptance, perception, neutrality and independence, National Red Cross and Red Crescent Societies are not usually active within places of detention during armed conflicts and other major violence. In other situations, however, they may help detainees, such as detained migrants, released detainees or their families. In such cases, the ICRC may provide technical support, in line with the Fundamental Principles of the Movement.

What is the legal basis for our visits?

The legal basis for our visits depends on the particular situation at hand.

International armed conflicts

The four Geneva Conventions and Additional Protocol I explicitly give the ICRC the right to act in the event of international armed conflict, as well as a broad right of

initiative. Our mandate to work on behalf of detainees in wartime is very clear: the Geneva Conventions give the ICRC the right to have access to prisoners of war, civilian internees and detainees, including in occupied territories, and to receive all relevant information pertaining to them.

Non-international armed conflicts

The ICRC has a broad right to offer its services to the parties to non-international armed conflicts under Article 3 common to the four Geneva Conventions. Such offers of services include visiting detainees held in relation to the conflict. The detaining authorities are under no legal obligation to accept the ICRC's visits and help for detainees. Nonetheless, the ICRC has continued to offer and carry out these visits for decades, which has led to them being internationally recognized and widely accepted.

Other situations

In other situations warranting humanitarian action, the ICRC has a right of initiative as set out in the Statutes of the International Red Cross and Red Crescent Movement. We offer our services when we believe our involvement will make a positive difference for people deprived of their liberty. We decide to get involved after a preliminary analysis of the situation to see whether our involvement would be necessary. The detaining authorities are under no legal obligation to accept our offer of services and to grant us access to detainees. However, as above, over the decades these visits have come to be a recognized part of our work and accepted by numerous countries.

Our commitment to confidentiality

Detention visits and related activities are subject to the ICRC's long-standing policy and practice of confidentiality. Confidentiality is crucial to ensuring access to places of detention and detainees. Years of experience have shown that confidentiality facilitates candid talks with the authorities in an atmosphere of trust that is geared to finding solutions and avoids the risk of politicization that comes with public exposure.

We respect the confidential nature of our findings, including detention reports and discussions of detention issues. The detaining authorities, for their part, also undertake to respect the confidentiality of our reports, letters and all other forms of confidential communication with our representatives. They commit to maintaining dialogue with the ICRC on detention matters and take steps to address the issues that we raise.

However, our commitment to confidentiality is not unconditional. The purpose and justification for this commitment derive from the quality of the dialogue that we maintain with the authorities and on the humanitarian impact

achievable through bilateral, confidential communication. In exceptional and serious circumstances, if we have exhausted all other options and have not got anywhere, we may decide to make our concerns public. We do this if we are convinced that it is the only way to improve the humanitarian situation.¹

We also follow a strict policy regarding the collection and management of personal data, including the protection of sensitive information pertaining to individual detainees.

Humanitarian action

The ICRC endeavours to take effective action in response to both the causes and consequences of humanitarian problems affecting detainees. We put forward realistic and achievable solutions that are in line with local traditions and culture and are suited to the authorities' willingness and ability to make changes. As much as possible, we try to attain sustainable results by suggesting how to fix systematic weaknesses. We set priorities according to the severity of each problem and the authorities' level of interest and openness, with particular attention paid to any intentional harm caused to detainees.

We look for sustainable solutions that help detainees cope better with their situation, and actively engage the authorities in resolving problems, seeking to address both causes and consequences.

A multi-pronged approach

The ICRC works to address humanitarian problems in detention through a variety of activities, ranging from encouraging the authorities to assume their responsibilities to providing services directly to detainees.

Dialogue

Persuading the authorities responsible for the conditions and treatment of detainees to make changes through dialogue is an essential part of the ICRC's approach. Bilateral and confidential dialogue aims at ensuring that the authorities are aware of the problems affecting detainees individually or collectively, persuading them to take action to address these problems and giving practical recommendations. The ICRC's goal is not to judge, but rather to improve the treatment and living conditions of detainees through constructive dialogue.

1 See ICRC, "Action by the International Committee of the Red Cross in the Event of Violations of International Humanitarian Law or of Other Fundamental Rules Protecting Persons in Situations of Violence", *International Review of the Red Cross*, Vol. 87, No. 858, 2005, available at: www.icrc.org/eng/resources/documents/publication/p0893.htm (accessed in October 2017).

At the end of each visit, for example, our delegates meet with the authorities in charge of the facility. We may also hold meetings with higher-level government officials or send written reports of our findings and recommendations. These reports may highlight urgent issues to be addressed or the progress achieved. In our discussions, the ICRC may also propose direct assistance or offer support.

Direct assistance

Especially in life-threatening or emergency situations, the ICRC may act directly – with the consent of the authorities and provided it has the capacity to do so – to improve the conditions of detention.

This may mean helping individuals or groups of detainees by providing medical or material aid (such as clothes, blankets, food, eating utensils, spectacles, books or orthoses) or by giving detainees the means to re-establish and maintain contact with their families. We may also design and implement improvements to infrastructure, such as water supply, storage and distribution systems, waste management, energy sources, sanitary facilities, kitchens and clinics.

Support

The ICRC may support the detaining authorities in providing improved services to detainees by a variety of means, such as joint pilots and projects, training and on-the-spot capacity-building, making contact easier between different administrations, and sharing best practice from other countries. We also offer expert advice on addressing shortcomings in the system, and provide support to the authorities in areas such as:

- defining budget needs;
- managing infrastructure and equipment;
- managing detention registers and detainee files;
- improving the food-supply chain, from budgeting to procurement, storage, preparation and distribution;
- organizing effective access to health care, including referrals when necessary;
- treating people with respect for their dignity and integrity;
- identifying and managing vulnerable detainees such as pregnant women, juveniles and the elderly;
- developing management procedures and external relationships (e.g., with the courts) to ensure the application of judicial and procedural safeguards;
- contributing to the adequate recruitment and training of security or prison staff;
- advising on prison planning and design in countries that need to increase their detention capacity; and
- providing input when legislation or operating procedures are being drafted, to ensure their compliance with international standards.

Structural or systemic changes can only be undertaken when the authorities recognize that they are necessary. It is the authorities who must take the lead in

what are often complex, multidisciplinary programmes. The ICRC can support and facilitate such changes. Support from the ICRC includes a training component to ensure the transfer of knowledge and skills to the authorities; this enables them to reach solutions autonomously in the long term.

Striking a balance

Most often, our work is a combination of persuasive dialogue, direct services and support, with each aspect reinforcing the others. For example, providing support may be a catalyst for change, build good will and nurture a more constructive dialogue, therefore reinforcing our efforts to persuade. Providing emergency assistance may help the detaining authorities to bridge a gap and, by alleviating a dire humanitarian situation, give them the time they need for things to be fixed or return to normal.

We review our goals and plans of action regularly and make any necessary adjustments to ensure our activities are in line with the intended results.

When does the ICRC get involved?

If a detaining authority is to treat its detainees humanely, ensure their safety and preserve their dignity, it must meet their physical, mental, social and legal needs. The ICRC gets involved to check that these needs are being met.

For example, we seek to prevent summary execution, forced disappearance and all forms of ill-treatment; make sure that detainees' living conditions are adequate in terms of space, light, hygiene, water, food and health care; ensure that they can have meaningful contact with each other, staff, family and the outside world; and make sure that they have access to legal representation. We also encourage the authorities to identify detainees who are particularly vulnerable and take into account their needs.

Torture and other forms of ill-treatment

Although strictly prohibited in all circumstances, the use of torture and other forms of ill-treatment remains sadly frequent and widespread.

Ill-treatment includes any assault on the physical and psychological integrity and dignity of an individual. When assessing how a detainee is treated, it is important to take into account all the factors that have a direct impact on detainees. The ICRC considers

“If the ICRC had not helped me, my life would have been completely different. Being able to stand and walk again means more than I can say.”

– *Detainee who suffered severe ill-treatment during detention and needed surgical reconstruction*

the cumulative effect of the detainees' experience, including how they are being and have been treated and for how long, what their living conditions are like, their access to information about what will happen to them, and how personally vulnerable they are to ill-treatment.

Ill-treatment may occur at different phases of detention, from the moment of arrest to release, for a variety of reasons. The ICRC is committed to ending torture and cruel, inhuman and degrading treatment. We also seek to analyze why people commit torture and to develop and maintain a dialogue with the authorities on the absolute prohibition of torture and other forms of ill-treatment. This dialogue includes supportive discussions with the authorities to improve how their staff treat detainees. The ICRC also reminds authorities about the principle of *non-refoulement*, which prohibits the transfer of a detainee to any country where he or she has serious fears of being ill-treated.

The victims of torture are the focus of the ICRC's concern; our goal is to ensure that they recover a sense of their inherent dignity and humanity. Private interviews with detainees, in particular with victims or potential victims of torture or ill-treatment, are essential – actively listening and empathizing with them helps them to recover their sense of personal dignity, and can provide comfort. The ICRC also engages in the rehabilitation of victims of torture and other forms of ill-treatment in certain situations.

The ICRC's definitions of torture and other forms of ill-treatment

- **Torture** consists of severe pain or suffering, whether physical or mental, inflicted for such purposes as obtaining information or a confession, exerting pressure, intimidation or humiliation.
- **Cruel or inhuman treatment** consists of acts which cause serious pain or suffering, whether physical or mental, or which constitute a serious outrage upon individual dignity. Unlike torture, these acts do not need to be committed for a specific purpose.
- **Humiliating or degrading treatment** consists of acts which involve real and serious humiliation or a serious outrage upon human dignity, and whose intensity is such that any reasonable person would feel outraged.

The expression "ill-treatment", though not strictly a legal term, covers all the above-mentioned acts.

The ICRC endeavours to contribute to the creation or strengthening of a legal, institutional and ethical environment conducive to preventing ill-treatment. We strive to reinforce the absolute prohibition on torture by drawing attention to the grave consequences of such practices for both the individuals concerned and society as a whole. We also work at the local, national and international levels to ensure that the legislative, regulatory and disciplinary safeguards in place provide for the absolute prohibition of torture and cruel, inhuman or degrading treatment.

Sexual violence in detention

Sexual violence in detention exists in most countries, and is a very complex issue both to analyze and to address. In detention, sexual violence can span a wide range of acts by different types of perpetrators (e.g., detaining authorities and detainees, of the same sex or not) and can vary widely in severity. Societal and cultural norms and sexual taboos may make it particularly difficult for detainees to disclose that they have been victims of sexual violence. This may also make them reluctant to seek medical treatment for physical and psychological injuries, exacerbating the harm suffered, and may also make it difficult for the authorities to discuss and address the problem.

Measures can be taken by the authorities to prevent sexual violence, but only if they are prepared to acknowledge that the problem exists. Possible measures are: separating men from women and adults from minors (if not from the same family); careful recruitment and training of male and female detention staff; ensuring that detainees have equal access to basic goods and services, and that no one extorts favours from detainees for such things; laying down detailed protocols for interrogation, searches and transfers; making available medical, psychological and social staff who are trained to detect sexual violence in a place of detention and identify victims in need of help; giving detainees and staff safe ways to make complaints and reports to the detaining authorities and independent bodies; and prohibiting and punishing sexual relations between staff and detainees.

ICRC delegates pay particular attention to the way they collect information in this delicate area, particularly in private interviews with detainees who may have been victims of sexual abuse or who wish to report it, applying carefully the idea of “do no harm”. When sexual violence is suspected, as for other forms of ill-treatment, the ICRC takes action both on individual cases and on the general issue as part of our confidential dialogue with the detaining authorities and our direct and systemic support to improve conditions and treatment for detainees. The ICRC pays particular attention to the risk of reprisals against the individuals concerned and to those likely to be the most vulnerable, such as minors, women, poor, sick and disabled detainees, migrants, detainees under interrogation and people of various gender identities.

Disappearance

Forced disappearance may mean a person is held incommunicado or in a secret place of detention for some time, but can end in death in the case of extrajudicial execution. This is, of course, a very serious issue and particularly affects people arrested in relation to armed conflict or other situations of violence. The ICRC does its utmost to address this problem as a matter of absolute priority. Information about arrest, access to places of detention, registration and

individual follow-up are key elements of its strategy, as is the timely notification to the family of a detainee's detention and whereabouts.

Administrative disappearance is often the result of disorganization. It can be caused by a lack of registers, up-to-date individual files or effective filing system, or the absence of a system for notifying families and the judicial authorities. Administrative disappearances are common in many countries and affect all detainees without distinction. This has serious consequences for detainees and their families, preventing access to basic services, courts and family visits, and leads to detention that is illegally prolonged. Where this is the case, the ICRC will help the authorities to make changes to their system in order to remedy the situation.

Living conditions

The material conditions of detention are among the most important things shaping detainees' lives. To preserve their health and human dignity, detainees must have decent living conditions in terms of space and accommodation, hygiene, food, water, sufficient access to the open air and physical exercise, and being able to spend their time meaningfully (education, vocational training, work, etc.).

Most aspects of life in detention have an impact on the physical and mental health of detainees, as well as staff. In all situations, including deprivation of liberty, a person's health is the sum of the three elements that make up the "health pyramid". The base of the pyramid consists of adequate food, water, hygiene and habitat, which contribute to a healthy environment. Preventive care builds on the base, while curative care sits at the top of the pyramid, as it is effective only when the foundations are in place.

The place used for detention may be unsuitable. This may be because of its location in a remote or unsanitary area far from sufficient energy and water sources, use of poor-quality materials in its construction, a design unsuited to the purpose and climate, a lack of maintenance, makeshift repairs or alterations, and/or overcrowding. Lack of knowledge and expertise, lack of interest or budget, absence of national standards, or simply inadequate procedures for keeping basic services running are only a few of the causes of such problems.

"We were even scratching in our dreams. Now we sleep well."

– *Detainee after a scabies eradication campaign conducted jointly by the ICRC and prison authorities*

"We really needed new equipment. It used to take three to four hours to cook and serve food. Now with this system, we can provide three meals a day instead of two."

– *Staff member of a prison kitchen where the ICRC installed solar water heaters to reduce energy consumption and the time needed to prepare food*

Prevention is better than cure. The ICRC works at all levels of the detention system to address problems arising because of shortcomings in the detention environment. For instance, we seek to prevent outbreaks of disease caused by poor sanitation. This generally has a positive impact on the staff working in the place of detention too, as well as the neighbouring community.

The ICRC looks at a broad range of issues to ensure that facilities provide:

- suitable and safe accommodation, such as adequate space, ventilation, light, heating, bedding and access to the open air;
- enough clean water to drink;
- adequate sanitary facilities and supplies to ensure personal hygiene;
- appropriate waste management and pest control (rodents, insects and other vectors of disease);
- equipment for storing and preparing food and eating;
- exercise yards, classrooms or workshops; and
- protection from the risk of fire, etc.

ICRC engineers sometimes improve infrastructure directly – for instance, by renovating accommodation blocks and sanitary facilities, improving water storage and distribution, and refurbishing kitchens and living areas used by the detainees. We may also help the authorities to reduce their energy consumption by installing low-energy ovens, solar panels or biogas plants.

ICRC engineers also work with the authorities and their technical staff to build up their capacity sustainably. This includes organizing national or regional training to promote best practice and experience-sharing, and advising on establishing national technical standards.

The ICRC increasingly advises governments on how to plan and design new prisons. This involves ensuring that the size of the facility, its location and its design are in line with local requirements, resources and culture; that it matches its environment; that the planning stage properly takes into account how the place is to operate and how detainees move within and between different areas; and that the design will enable the detaining authorities not only to ensure security but also to accommodate detainees safely and humanely.

“I learnt about project management during my studies years ago. But it was really useful to go over those ideas again so that the new prisons would be built sustainably and match the country’s and the detainees’ needs.”

– *Prison administration architect at a training course on project management*

Food and nutrition

The presence of detainees suffering from moderate or severe acute malnutrition in a detention facility usually reveals gaps in the entire food-supply chain – from budget,

procurement and storage to preparation and distribution of food – and/or a high prevalence of diseases related to an unhealthy environment.

Treatment of malnutrition offers short-term (and lifesaving) gains but does not address the risk of detainees again becoming malnourished if the food-supply chain and living environment remain inadequate. General hygiene must be improved and all parts of the food-supply chain must function properly.

The ICRC's approach in the field of nutrition is typically a mixture of direct assistance, support and dialogue. Direct assistance often comprises malnutrition treatment programmes, providing certain foods or micro-nutrients and improving the infrastructure for food storage and preparation. Support typically comprises technical assistance in optimizing the way the food-supply chain is managed and how detainees are diagnosed and treated for malnutrition.

Dialogue aims at persuading the staff of places of detention, health-care workers and other authorities concerned to work towards making the food-supply chain work properly. The ICRC aims also to prevent malnutrition by ensuring that food is distributed fairly within places of detention.

Health care

Health care in places of detention should be at least equivalent in quality to what is available in the community outside and/or to what the national health authorities recommend for public health facilities, in line with international standards. Providing preventive and curative health care to detainees requires infrastructure, equipment and

resources; well-trained staff and organization; and appropriate mechanisms to ensure that all detainees have access to health-care services when they need it.

To achieve this, ICRC doctors and nurses provide expert advice to the detaining authorities, while also advocating for the increased involvement of national health ministries in places of detention. In addition, they work to support health-care workers in places of detention, including by raising awareness of and compliance with medical ethics, such as medical confidentiality, needs-based and patient-oriented care, and access to health-care services without barriers or discrimination.

Furthermore, as millions of people enter and leave detention systems worldwide every year, ensuring adequate health care in places of detention has a positive impact on the health of the outside community too.

“With time we have learnt something from each other. With the help of the ICRC detention doctor I have been able to uphold medical ethics. She supported me in a crucial case, and we got the informed consent of the patient.”

– *Doctor working in a prison health facility, speaking about an ICRC detention doctor*

Controlling tuberculosis in prison

Tuberculosis (TB), in particular multi-drug-resistant TB, is a contagious and potentially fatal disease. It is spreading at alarming rates in some parts of the world and is particularly virulent in places of detention. It can be more than 100 times more prevalent inside prison walls than out. It is often caused by overcrowding, insufficient ventilation, ignorance of prevention measures, poor health-care services and failure to supervise and ensure adequate adherence to treatment.

For many years, the ICRC has been working with governments in an effort to fight the disease. This work has involved contacts with different ministries (health, interior, justice) and national and international organizations involved in TB treatment in particular. In detention facilities, our work has been in a broad spectrum of activities such as screening, treating (takes up to two years) and managing TB patients in a specialist facility; training specialists; providing and installing equipment, organizing laboratories and dedicated wards; and advising on public health policy. For our involvement to be successful, obviously we need a strong commitment on the part of national authorities to fulfilling their roles.

Cooperation and partnerships with the World Health Organization on TB in prison also ensure that learning is shared, notably through worldwide dissemination of fact sheets, policy papers and recommendations.

Contact with family and the outside world

All human beings have emotional ties with their families and communities that strengthen their psychological well-being. But deprivation of liberty abruptly redefines and limits people's interaction with the outside world. Non-existent or poorly organized contact between detainees and their families causes intense stress and suffering to both.

“My mother’s crying was like a bullet to my heart. I cannot describe my feelings during the visit. It’s like I was dead but came back to life again. I feel like I’ve been reborn. Her visit eased my suffering.”

– *Detainee who, after two years in detention, saw his mother again thanks to an ICRC family visit programme*

Even though detention facilities are closed institutions, detainees remain members of society with a number of rights regarding contact with the outside world. They need, and should have, the right to maintain contact with relatives, as well as with legal counsel, inspection agencies, religious leaders and diplomatic representatives. Keeping in contact is equally important for detainees' spouses, children and parents. Often, family members support their detained relatives by giving them clothes, food, money, etc. They may also help establish and

coordinate contact with a lawyer, as well as follow up on the progress of their loved one's case before the judicial authorities if needed.

Detainees may lose contact with their families for a variety of reasons: poor organization on the part of the detention authorities, dysfunctional communication systems (postal service or telephone), long distances and/or unsafe travel conditions, or the family's lack of resources. Depriving them of contact with their families may also be a deliberate punishment or a way of putting pressure on detainees.

"I still carry around the first Red Cross message I received from my family through the ICRC... It's been ten years. I had thought I would never see my wife and children again, but after the ICRC's visit and the messages, they came to visit me. My life changed that day, knowing they were OK."

– *Detainee sentenced to life imprisonment*

Helping restore and maintain family links is a fundamental part of the ICRC's detention-related activities. Having identified why contact was lost, we help detainees to let their families know where they are. This alleviates a great deal of anxiety and stress, and is also a protective measure against being held incommunicado and the risk of disappearance. In the longer run, if we have the agreement of the detaining authority, we may provide various means of maintaining contact: Red Cross messages, phone calls, video conferences and arrangements for family visits, etc.

The ICRC may also offer the authorities recommendations and support to establish or improve ways of notifying family, lawyers or diplomatic representatives of detainees' whereabouts, as well as ensuring that the facility's infrastructure and working procedures are sufficiently geared towards frequent positive contact with the outside world.

Access to justice

All people deprived of their liberty have the right to judicial and procedural safeguards. This ensures the legality of the judicial or administrative proceedings that they are going through, and protects them from being detained arbitrarily.

International law has defined judicial safeguards that should be incorporated into domestic law. These safeguards can have a vast influence on the lives of detainees throughout their time in detention. Why have they been detained? What is happening now? How, when and by whom will their case be decided, and how can they defend themselves? These questions are all essential to the mental and psychological well-being of detainees and their families, and are often among the first concerns raised by the detainees with whom ICRC delegates meet.

Judicial and procedural safeguards are also instrumental in helping the ICRC to address other problems, such as forced disappearance, ill-treatment (e.g.,

in working to end forced confessions) and overcrowding (e.g., in reducing automatic recourse to pre-trial detention and promoting compliance with time limits).

Whenever possible and advisable, the ICRC's work in this area combines action at the level of individual detainees (pointing out that proper procedure has not been observed in specific cases) with higher-level efforts (raising issues of systemic shortcomings we have encountered with the military, police and judicial and/or prison authorities).

Overcrowding

The ICRC has witnessed first-hand – in a wide variety of detention facilities over many years – the serious and growing impact of overcrowding on detainees and detaining authorities alike. Overcrowding causes substandard and inhumane conditions of detention. It seriously compromises the authorities' ability to fulfil detainees' basic needs in terms of living conditions, medical care, family visits and access to justice. In overcrowded facilities, detainees are squeezed into cramped living quarters, often with appalling sanitation and no privacy; this makes the experience of being deprived of liberty – already stressful in normal circumstances – far worse. It erodes human dignity and undermines detainees' physical and mental health along with their prospects for reintegration into society. In addition to putting excessive strain on infrastructure, overcrowding heightens the potential for conflict with staff and among detainees. It quickly leads to difficulties in maintaining order within the facility, sometimes resulting in severe consequences in terms of detainees' safety and supervision, as well as overall security.

Reforms, such as reviewing criminal policies, improving how statistics are gathered, embarking on legislative or procedural changes and altering long-standing judicial practices, are anything but straightforward. Considerable sensitivity is required when confronting commonly held perceptions or investing in alternatives to detention while still reassuring the public that measures are being taken to fight crime. But all these actions need to be considered to reduce overcrowding. After analyzing the main causes of overcrowding and the priority issues for the ICRC, we can work in different ways and at different levels to tackle the problem, so long as the authorities are willing to address it.

We work to bring together the government and others whose action is required in finding a solution. This can help achieve legislative or procedural changes – in sentencing policies and pre-trial case management, for example. Such collaboration can lead to improvements in the efficiency of the criminal justice system, including access to legal aid, reductions in the length of pre-trial detention and improved alternatives to detention. The ICRC can also push for more social reintegration programmes – such as education and vocational training – and stronger family links in order to reduce recidivism. Finally, we can work with the authorities to find ways to manage prison capacities better, and plan improvements in existing and future detention facilities.

Reducing overcrowding requires short-, medium- and long-term action by the ICRC, particularly persuasive dialogue, but also multidisciplinary technical support and coordination and mobilization of other organizations. In our experience, small but coordinated steps by a range of people can make a real difference in resolving this complex problem, alleviating the negative impact of overcrowding on both detainees and detention authorities.

Reintegrating into society

The struggles of living through a period of detention can leave scars that take a long time to fade. Many detainees suffer the long-lasting effects of poor nutrition or medical care, loss of contact with family and community, ill-treatment, stigmatization, etc. Former detainees may face rejection and harassment by the authorities or their own communities.

“I had never had the opportunity to be trained for a job – the only thing I knew was how to fire a gun. Thanks to the ICRC and the prison staff, I received training in carpentry. Now I can make anything you need for your house out of wood. These skills have changed my entire life. I am full of energy. When I get out, I plan to work in a carpentry shop. With a bit of investment I can start my own business and be independent.”

– *Detainee who received ICRC-funded vocational training in detention*

Rehabilitating

people who have been deprived of their liberty requires actions and services that restore the physical, psychological and social integrity that was eroded by detention. Reintegration is a long and complex process which in many cases can do no more than mitigate certain consequences of detention. It encompasses physical and mental health, social reintegration, economic security and physical security.

In countries where disappearances happen, the ICRC may need to check that certain individuals have really been released. The ICRC also seeks to alleviate the problems faced by former detainees, especially by victims of ill-treatment. But such a process is too complex for the ICRC to deal with alone. Our role consists mainly of developing targeted post-detention programmes that offer initial aid to people who have recently been released. Depending on the circumstances, the ICRC may also support local services that help former detainees over a longer period.

Lastly, it is important to note that a detainee’s rehabilitation should start during detention. In our dialogue with the authorities, we urge them to prepare for detainees’ release and implement measures that reduce the negative impact of detention as soon as possible.

Women and detention

Women represent roughly 6% of detainees worldwide. Because of the role they usually play in family life, the detention of women has a specific impact on their dependants, young and old, as well as on their own experience of detention. The designers and managers of detention facilities tend to be men; health care in detention is thus often designed primarily with men's bodies and needs in mind, with women's specific needs largely overlooked. Women and girls also face higher risks of ill-treatment, including sexual abuse by male detention staff and co-detainees. This is especially the case when families are not kept together as a unit, men and women not separated, and female staff are not part of the management. Finally, society often has a different perception of male and female detainees: for women, this can mean rejection by their families and communities upon release.

For all of the above reasons, the ICRC pays particular attention to the situation of women and girls in detention. Priority concerns include safe living conditions, in particular the separation of male and female accommodation or facilities (unless family members are held as a unit); sufficient levels of hygiene and availability of hygienic supplies; safe and equitable access to food, sanitary facilities, health services, work opportunities, education, recreational spaces and other services; ability to maintain contact with family, including visits from children and other family members; sufficient attention to the specific needs of pregnant women and girls, and of mothers held with their babies or small children; and effective female supervision of women's accommodation, particularly in order to prevent sexual abuse.

Children and detention

Children – all individuals under 18 years old – may be detained for various reasons. They may be born to detained women or girls, or held with a detained parent; held, as is increasingly the case, in immigration-detention centres; held under criminal law, often as first-time offenders charged with minor offences; detained for association with armed groups; or taken into administrative or “preventive” detention, ostensibly to protect them from living on the streets or because they are seen as antisocial or as posing a security threat.

Children who grow up in detention face daunting challenges to becoming well-adjusted adults. They are at increased risk of violence, neglect or exploitation, which for many is a continuation of pre-existing hardship.

During detention visits, the ICRC pays particular attention to the treatment and living conditions of children. We strive to ensure that detaining authorities protect children with measures that take their specific needs into account. Such measures include properly assessing their age; protecting children from all forms of ill-treatment, including sexual violence; providing legal advice and practical

support to children and ensuring that criminal laws, procedures and institutions are adapted to reflect their specific needs and best interests; ensuring that children are detained only as a last resort and for the shortest possible time; separating children from adult detainees (except when the child is detained with a family member); moving children to appropriate, non-custodial accommodation; maintaining direct, regular and frequent contact between children and their families; providing children with adequate food, sanitary facilities and access to health care; making sure children can take outdoor exercise every day for as long as possible; and enabling children to take part in education, sport and other recreational activities.

Such action often requires long-term, multidisciplinary involvement by the ICRC at various levels of the hierarchy and using a variety of methods, such as persuasive dialogue and cooperation with, and support for, agencies specializing in child protection.

Migrants and detention

The ICRC visits detained migrants in both criminal facilities and dedicated immigration detention centres.

An increasing number of migrants – regardless of their personal circumstances – end up in detention because they entered or remained in a country illegally. Detention can be particularly harmful for migrants' mental health because it may compound the trauma they have already suffered in their home country or along the migration route. Uncertainty surrounding the administrative process and fears for the future are also extremely stressful. We therefore remind authorities that all detention of migrants must be necessary, reasonable and proportionate to a legitimate aim. We encourage them to make such detention a last resort and to consider the possible alternatives, especially for vulnerable groups such as asylum-seekers, children, victims of human trafficking and traumatized individuals.

As with all detainees, the ICRC focuses on migrants' conditions of detention and treatment and works to ensure they receive due process of law and have contact with the outside world. Such contact is especially important in places where migrants might not otherwise be able to reach their families or a consulate. We also raise issues related to the transfer of migrants to ensure that the authorities know their obligations under international law and respect the principle of *non-refoulement*.

The ICRC also provides support and expertise to National Red Cross and Red Crescent Societies that work with detained migrants.