OPEN-ENDED INTERGOVERNMENTAL EXPERT GROUP
ON THE STANDARD MINIMUM RULES FOR THE
TREATMENT OF PRISONERS
VIENNA, AUSTRIA, 25 – 28 March 2014

RESPONSE OF THE GOVERNMENT OF LEBANON
TO NOTE VERBALE CU 2013/129/DO/JS

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The Permanent Mission of Lebanon in Vienna presents its compliments to the United Nations Office on Drugs and Crime – Justice Section - and with ref. to the latter’s note # CU2013/129/DO/JS dated 203.07.2013, regarding the draft resolution on “Standard Minimum Rules for the Treatment of prisoners”, has the honor to enclose herewith the drafting proposals of the Lebanese Ministry of Justice on the above mentioned resolution.

The Permanent Mission of Lebanon avails itself of this opportunity to renew to the United Nations Office on Drugs and Crime – Justice Section - the assurances of its highest consideration.

Vienna, 23 October 2013
Draft resolution 6

"Standard Minimum Rules for the Treatment of Prisoners"

Areas identified for revision

a- Respect for prisoners’ inherent dignity and value as human beings
b- Medical and health services
c- Disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet
d- Investigations on all deaths in custody, as well as of any signs or allegations of torture or inhuman or degrading treatment or punishment of prisoners
e- Protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances
f- The right of access to legal representation
g- Complaints and independent inspection
h- The replacement of outdated terminology
i- Training of relevant staff to implement the Standard Minimum Rules
Comments and Recommendations

First and most important, we find it vital to emphasize the main principle reiterated by the General Assembly concerning the revision process, which is “...that any changes to the Standard Minimum Rules for the Treatment of Prisoners should not lower any of the existing standards, but should improve them so that they reflect the recent advances in correctional sciences and good practices, so as to promote safety, security and humane conditions for prisoners.”

The adoption of such a direction is and remains a most vital asset, inspiring, enabling and motivating Member States to strive towards conforming to the Minimum Standard Rules and adapting their national legislations in the pursuit of that goal and keeping up with progress and best practices.

Secondly, pertaining to each of the areas identified for revision,

Area (a): Respect for prisoners inherent dignity and value as human beings

This area revolves around the prohibition of discrimination and includes the extension of the grounds on which discrimination should be prohibited, as well as making the rules concerning this issue Principles of General Application by relocating them and qualifying them as “Basic Principles”.

We believe this is a most essential matter, and that the proposed revision, through extending the grounds of prohibition and raising its rules to become basic principles, is a truly positive one, especially since discrimination, under all its forms, is a major concern in detention.
Area (b): Medical and health services

This specific area of revision encompasses multiple aspects of health in detention,

1. Adding a reference to the principle of equivalence of health care, clarifying that its services in detention are to be provided free of charge and without discrimination. Adding that health policy in prisons should be integrated or at least compatible with national health policy, a principle of vital importance that should be specifically mentioned in order to remind all Member States of its magnitude.

Another essential issue is the necessity of preparing and maintaining accurate, up-to-date and confidential medical files of all prisoners, which is a course being implemented in Lebanese prisons currently.

2. Other points of interest include the necessity of broad range gender specific health care services for women prisoners and children living with their mothers in prison; the ethical obligation of physicians and nurses in prison to record all signs of torture or cruel treatment which they may detect in the context of medical examinations, and to report such cases; as well as the elaboration on the primary duties and obligations of health care staff, primarily acting in line with the core principles of medical ethics.

Calling attention to such specific issues and elaborating on them as Standard Minimum Rules is a welcomed course of action, especially since the fact remains that the prisoner should be entitled to the same health care provided to free citizens and that the health issue will always remain the top priority of any incarcerated individual.

Area (c): Disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet

In this area, the Expert Group identified multiple issues for revision such as:

Encouraging the use of mediation mechanisms to solve conflicts, which is a sound and productive approach in detention but that requires a trained and specialized staff in order to achieve it.

Requiring that all procedures related to searches be determined by law or by regulation of the competent administrative authority, as well as being in line with international
standards and norms (principles of legality, necessity and proportionality). Although this principle should be included and underlined within the "Standard Minimum Rules", its implementation should not limit the authority of the prison staff to a point where it could compromise the security of the facility.

Prohibiting the reduction of diet, prolonged and indefinite solitary confinement, collective punishment and the suspension of family visits, as punishments for disciplinary offences, as well as prohibiting solitary confinement for juveniles, pregnant women, women with infants, breastfeeding mothers and prisoners with mental disabilities as a disciplinary punishment, for life sentenced prisoners and prisoners sentenced to death by virtue of their sentence, and for pretrial detainees, as an extortion technique.

Limiting the use of solitary confinement as punishment to a disposition of last resort, to be applied in exceptional circumstances only and for as short a time as possible, and providing for such punishment to be properly recorded.

Lebanese laws and regulations do not allow collective punishment or prolonged and indefinite solitary confinement, it is closely regulated and also regarded as a measure of last resort, but is in fact used often, mainly because of the lack of efficiency of other measures, or even the impossibility to resort to them.

Reduction of diet is mentioned as punishment in the regulations, but is never implemented.

As for the prohibition of solitary confinement for certain groups of prisoners, Lebanon would need also a legislative amendment in order to be in line with this revision.

Area (d): Investigations on all deaths in custody, as well as of any signs or allegations of torture or inhuman or degrading treatment or punishment of prisoners

The issues covered in this area of revision, mainly the need to include all cases of torture, punishments, circumstances and causes of deaths or serious injuries in the prisoner file, disclosing the findings of the investigation to the competent authorities, the need to initiate prompt and impartial investigations in any case of torture or inhuman treatment and the need for prison administrations to provide for or facilitate culturally appropriate burials in case of custodial deaths, are all subjects worth being highlighted within the
Standard Minimum Rules and are covered by Lebanese laws and regulations through standard procedures.

It is to be noted, regarding paragraph (c), that according to Lebanese law, the judicial authority is the only competent authority to initiate and conduct investigations of all incidents of deaths, in or outside custody.

Area (e): Protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances

Dedicating a paragraph, within rule 6, part of the Rules of General Application, addressing the issue of the protection of prisoners with special needs and vulnerable groups in custody constitutes a step in the right direction, bound to encourage Member States to pay closer attention to ensure the protection of such groups and individuals who constitute the most fragile members of the usually merciless custodial society.

Area (f): The right of access to legal representation

Only two major concerns in this area of revision require our attention and comments.

One is providing for a qualified right to legal advice in the context of disciplinary proceedings. (Paragraph b)

Indeed, as far as breaches of discipline that are prosecuted as crimes, the question does not arise since the right to legal representation in these cases is well consecrated. As for all other disciplinary cases, providing legal representation requires a major legislative and cultural evolution leading to the amendment of the laws and regulations governing this issue.

The other key concern is the access of imprisoned persons to legal aid mechanisms.

This is a theme that we believe to be of a vital nature, and that requires a lot of consideration and combined efforts from all concerned parties, as well as from each of the Member States.
Area (g): Complaints and independent inspection

In the context of this area of revision, efforts have been made to: expand the scope of the prisoner's rights to make requests and complaints, ensuring safe, direct, efficient and confidential manners to do so, avoiding any risk of retaliation or other negative consequences.

A subject that calls for special consideration is the need to create and expand the authority of external inspection bodies that "...should be independent from the authority in charge of the administration of places of detention or imprisonment"

For without this vital independent nature, no inspection mechanism can operate proficiently.

Area (i) Training of relevant staff to implement the Standard Minimum Rules

This final area of revision focuses on the positive impact of staff training, the main instruments, standards, best practices, legislations and codes of conduct that should constitute the references of the training, as well as the importance of specialization.

Acknowledging the value and positive impact of adequate and qualified personnel is a most vital contribution made to the Standard Minimum Rules by this revision draft report.