
5 August 2011

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Report on the High Level Expert Group Meeting on the United Nations Standard Minimum Rules for the treatment of prisoners held in Santo Domingo from 3 to 5 August 2011

I. Introduction

1. In its resolution 65/230 entitled “Twelfth United Nations Congress on Crime Prevention and Criminal Justice”, adopted on 21 December 2010, the United Nations General Assembly requested the Commission on Crime Prevention and Criminal Justice to establish, in line with paragraph 49 of the Salvador Declaration, an open-ended intergovernmental expert group (IEGM) to exchange information on best practices, as well as national legislation and existing international law, and on the revision of existing United Nations Standard Minimum Rules (SMRs) for the treatment of prisoners so that they reflect recent advances in correctional science and best practices, with a view to making recommendations to the Commission on possible next steps.

2. The High Level Expert Group Meeting on the SMRs held in Santo Domingo from 3 to 5 August 2011 was convened as a preparatory step towards the IEGM, which will be held in Vienna in January 2012. With the participation of representatives of the Government and the Judiciary from Latin American and Caribbean countries, the High Level Expert Group Meeting aimed to identify good practices on the implementation of the SMRs in Latin American and Caribbean countries and to explore areas where the SMRs may need to be updated or complemented. The meeting built on the outcome of the Workshop on "Survey of the UN and other best practices in the treatment of prisoners in the criminal justice system", organized during the Twelfth Crime Congress, with the lead of the Government of Brazil.

3. The Meeting included eight substantive sessions to discuss the major themes relating to the treatment of prisoners in Latin America and the Caribbean (see agenda of the meeting attached as Annex I).

II. Organization of the meeting

A. Opening of the meeting

4. The opening session was held at the premises of the Attorney General's office.
5. The following speakers addressed the opening session: Mr. Gonzalo Vargas Llosa, Head of the Office of the United Nations High Commissioner for Refugees (UNHCR), Dominican Republic; Ms. Sandra Valle, UNODC Senior Interregional Adviser; Mr. Elías Carranza, Director-General of the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD); Ms. Mabel Feliz, Director of the National Council on Drugs, Dominican Republic; Mr. Carlos Morales Troncoso, Minister of Foreign Affairs, Dominican Republic; Mr. Radhamés Jiménez Peña, Attorney General, Dominican Republic.

B. Attendance

6. The meeting was attended by 56 experts from 15 countries: Bolivia (Plurinational State of), Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Mexico, Nicaragua, Panama, Peru, Dominican Republic, Saint Lucia, Saint Martin and Uruguay. Observers from the International Penal Penitentiary Foundation, the Association of Caribbean Heads of Correction and Prison Services (ACHCPS), the Organization of American States (OAS), the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), the Office of the High Commissioner for Human Rights (OHCHR) also attended the meeting as well as international experts. A list of participants is contained in Annex II to the present report.

III. Summary of deliberations

7. The meeting considered the key aspects of the SMRs in terms of how they are implemented within the Caribbean and Latin American region. Emphasis has been placed on the need to find ways in which to ensure that the current SMRs are fully implemented in the prisons of the region. In the course of the last sixty years a wide range of conventions, declarations and principles containing references to the treatment of prisoners have been approved by the United Nations. Some of them deal with issues which were not considered when the SMRs were first approved; others clarify and develop the principles expressed in the SMRs. It was suggested that it would be helpful to demonstrate the manner in which these official UN documents reinforce and expand on the provisions in the SMRs. It was underlined that nothing should be done to threaten the integrity of the SMRs, which are recognised and acknowledged around the world, and are neither outdated nor irrelevant. At the same time, it would be useful to have an acknowledgement of more recent developments and of current best practices. It was suggested that this might be done by using regional documents such as the Principles and Practices on

the Protection of Persons deprived of their Liberty in the Americas (approved by the IACHR in 2008) as an exegesis or critical interpretation of the SMRs.

8. The main challenges facing prisons in the Caribbean and Latin American region were discussed.

Pre-trial detention

9. Reference was made to the high proportion of prisoners in many states who are held awaiting trial. In many instances this is caused by the lengthy periods which elapse before the judicial process is begun. The principle that a person should be brought to trial “within a reasonable period” is a common law concept which means little in most jurisdictions in the region. It was suggested that it would be helpful to have a more precise definition of what might constitute a “reasonable period” of time in order to impress on prosecuting and judicial authorities the consequences of delay.

10. In some jurisdictions the law stipulates a period within which a person has to be brought to trial and if this limit is not observed the person is released. That can be an important stimulus to authorities to ensure that investigations are not delayed unreasonably.

11. Absence of adequate legal advice was highlighted as an important contributory factor to the high proportions in pre-trial detention. Several speakers expressed the view that all pre-trial prisoners should have the right of access to a lawyer.

12. Speakers from a number of states suggested that there was a tendency for prosecutors and judges to order that those awaiting trial should be held in detention, rather than making other arrangements for pre-trial supervision in the community. In this way detention becomes the norm instead of the exception. It was suggested that this attitude applies particularly when the accused persons are from minority ethnic or racial groups. It was proposed that there should be attempts to sensitise the prosecuting and judicial authorities to these dangers.

13. Examples were given of non-custodial methods of pre-trial supervision, including lodging of financial bonds, requirements to report regularly to the police and limited forms of house arrest.

14. In smaller countries there is sometimes a genuine danger that the accused person might simply travel to a neighbouring state. The influence of “the court of public opinion”, particularly in states which have relatively small populations, was recognised. This can pressure judicial authorities into imposing pre-trial detention in anticipation of conviction.

Prison overcrowding

15. Several speakers pointed out that the most effective method of dealing with prison overcrowding is by ensuring that judges impose prison sentences only when there is no other reasonable sentence. In other words, rather than seek “alternatives

to prison”, it should be emphasised that imprisonment should be the alternative, only to be used when really necessary.

16. Linked to the previous point is the need to “demystify” prison, to open a debate about its financial and social costs and about its limited contribution to personal change.

17. The responsibility of governments was recognized in terms of ensuring that there are sufficient places for those who are sent to prison and, if necessary, to indicate when the available accommodation is full.

18. It was pointed out that there is a tendency always to build high security prisons, which can be very expensive, rather than to carry out an assessment as to what level of security is required. Many prisoners can safely be held in relatively low security prisons and examples were provided of prison farms, where prisoners were able to be gainfully employed all day, as well as open prisons where men and women could carry out work in the local community.

19. These processes can be assisted if there is a system for making an early assessment of the degree of risk which a prisoner presents in order to ensure that persons are held in the lowest appropriate security conditions. This applies particularly to younger prisoners and to women who are in prison.

20. Several speakers spoke about bad experiences with contractors from other countries and regions who have built prisons or accommodation modules which are quite inappropriate for use in the region and which are below the necessary standards.

21. Overcrowding within prisons can be exacerbated by uneven distribution of prisoners. In one country 50% of prisoners are held in 20% of the prisons which are grossly overcrowded. Similarly, there can be unequal distribution inside individual prisons.

22. Even in overcrowded prisons one frequently finds areas which prisoners could use but to which they rarely if ever have access.

Health care

23. Any discussion about health care in prisons has to begin with recognition of the prisoner as human being, a person to be safeguarded by the law. This implies respect for the dignity of the person and of the concept that access to health care is a fundamental human right.

24. Prison health is a public health issue. In some countries the responsibility for delivering health care in prison lies with the Ministry of Health and not with the Ministry responsible for prison administration. Where this is the case, there should be a close link between the respective authorities.

25. Those responsible for public health need to be made aware of the consequences for public health if there is poor health care in prisons.

26. Health care in prisons is not solely a medical or nursing matter. It implies having a healthy environment based on respect for the person.

27. Medical and nursing staff should never be involved in authorising or supervising use of isolation or dark cells, where they exist, or in the application of any security control. They do have a responsibility to speak out and to report to the appropriate authorities when any of these are used to the detriment of a person's health.

28. In a number of countries many prisoners come from marginalised groups who do not have access to adequate health care in the community.

29. There was considerable discussion about mental health issues and the fact that prisons are often used as the final place of asylum for those who suffer from these problems, despite the fact that prison personnel are not trained to deal with such persons.

30. A number of speakers mentioned the situation of prisoners who are terminally ill. There was agreement that, other than in exceptional cases, a person should be allowed to end his or her days outside prison. Judges are generally very cautious about agreeing to conditional release in such cases.

Special categories of prisoner

31. Participants were invited to discuss issues relating to persons sentenced to life imprisonment or with very long sentences, those held in conditions of very high security, those in need of medical assistance for their physical or mental health, foreign nationals, minority groups, older prisoners, women and juveniles.

32. It was pointed out that prisoners are not a homogenous group. All prisoners are to be regarded as individuals and as belonging to specific groups according to their personal characteristics, particular needs or legal status. In that regard, it may not be helpful to refer to all the prisoners in the above paragraph as "special categories".

33. The main consideration should be to ensure that the pain of imprisonment is not intensified for any prisoner because of his or her personal characteristics or situation. In that regard, it was suggested that particular attention should be paid to two groups.

34. The first includes those who are particularly vulnerable in the overwhelmingly male, security conscious, sometimes violent and dangerous environment of the prison. This group is likely to include women, young persons and older persons, lesbian, gay or transgender persons, foreign nationals, those who are ill and those from minority groups. They are likely to need specific safeguards to ensure that the pain of their imprisonment is not increased.

35. The second group includes those who are subject to increased security requirements because of the nature of their crime, the length of their sentence, or the threat which they pose either inside the prison or to civil society. They also require special safeguards to ensure that the pain of their imprisonment is not increased unnecessarily.

36. In discussion there were interventions about the specific needs of the increasing number of foreign national prisoners in some states, including the access to consular services and the possibility of return to their home countries.

37. There was also discussion about the requirements of prisoners at either end of the age spectrum. Increasingly long sentences mean that the proportion of elderly who require special care is increasing. In some societies children are being used by gangs and others as killers or for other violent acts. When they come to prison they need special provision.

38. The bulk of the discussion in this session was taken up by a very useful exchange, mainly between representatives from Central American countries, about experience of prison gangs and appropriate responses to the significant challenges which they present.

Prison staff

39. It was unanimously agreed that prison personnel are key to the effective management of prisons. There was extensive discussion about the need for proper recruitment processes, which identifies those who are suitable for this type of difficult public service and which excludes those who are not; for proper initial training before new personnel begin to work with prisoners; and for continuous development thereafter.

40. The main focus of this session was on the good practice which has been developed since 2003 in the New Model (Nuevo Modelo) of Prison Management in the Dominican Republic, presented by its Director, Roberto Santana. The key to the New Model is not the new prison buildings (although they are important) but rather the new staff, who all have to undertake one year's training before they are confirmed in their positions.

41. Two key features in the New Model were identified in respect of personnel. The first was the fact that the staff recruited were generally young and highly motivated with no previous experience in either the police or the military. The second was the experienced group of staff working in the prison training school. Many of them had extensive previous professional experience in the worlds of teaching, administration or professional development.

42. The success of the New Model was confirmed by those participants who were able to visit to staff training school (ENAP) and the Centre for Correction and Rehabilitation at San Pedro de Macoris.

43. A programme of staff exchange with other countries in the region has now begun.

Treatment of prisoners and training and rehabilitation programmes

44. The main focus of discussion in this session was on an exchange of information about good practice in the region. These included the following.

45. An example of a simple assessment and diagnostic system to identify the needs of prisoners as well as of their skills and potential. This takes account of gender and cultural diversity.

46. Another assessment system which identifies different levels of security risk and is used to ensure that prisoners are placed in prisons with low security wherever possible.

47. A focus on providing prisoners with training and skills which will make them eligible for the employment which is likely to be available to them on release. This is linked with a legal obligation on companies to employ former prisoners.

48. The involvement of members of civil society inside the prison on creative arts courses, linked with arrangements for prisoners to work for the benefit of the community.

49. The development of micro-enterprises which allow prisoners to develop their skills inside prison in a manner which they can use after release.

50. Involving commercial enterprises in prison workshops, paying prisoners proper wages, which allow them to send money to their families and to save for the release. Ensuring that these initiatives include women as well as men.

External oversight of prisons

51. It was pointed out that the best external oversight comes when the prison is as transparent as possible and groups from civil society are encouraged to take part in activities in the prison and to learn what goes on there.

52. There was discussion about the various forms of oversight which are available throughout the region and how best to strengthen them.

53. Independent oversight of prisons can prevent or reduce violations of human rights against prisoners and they can also protect prison staff against unjust accusations.

54. The need for countries in the region to ratify the Optional Protocol to the Convention against Torture and to establish National Preventive Mechanisms to oversee places of detention was acknowledged.

V. Adoption of the report and closure of the meeting

55. At its last meeting, on 5 August, High Level Expert Group adopted the above summary of deliberations as the conclusions of the meeting.

Annex I

Agenda

**HIGH-LEVEL EXPERT GROUP MEETING
SANTO DOMINGO, THE DOMINICAN REPUBLIC
3 – 5 AUGUST 2011**

Wednesday 3 August

08:30 – 08:30	Registration of participants.
08:30	Transfer to the premises of the Attorney General's Office.
09:00 – 11:00	Opening Session <ul style="list-style-type: none">- Gonzalo Vargas Llosa, Head of UNHCR in the Dominican Republic.- Sandra Valle, UNODC Senior Interregional Adviser.- Elías Carranza, Director-General of ILANUD.- Mabel Feliz, Director of the National Council on Drugs, Dominican Republic- Carlos Morales Troncoso, Minister of Foreign Affairs, Dominican Republic- Radhamés Jiménez Peña, Attorney General, Dominican Republic.
11:30	Transfer to the Hotel.
12:30 – 14:00	<i>Lunch</i>
14:00 – 14:15	Information on the revision of the <i>Standard Minimum Rules</i> for the <i>Treatment</i> of Prisoners. <ul style="list-style-type: none">- Valerie Lebaux, Chief UNODC Justice Section.
14:15 – 15:45	Session 1: Pre-trial detention <i>Treatment of pre-trial detainees and identification of good practices in the region.</i> Presenter and moderator: Baroness Vivien Stern, international expert
14:45 – 16:15	<i>Coffee break..</i>
16:15 – 17:45	Session 2: Prison overcrowding Minimizing the harmful effects of prison overcrowding in implementing the UN Standard Minimum Rules for the Treatment of prisoners and identification of good practices in the region. Presenter and moderator: Professor Andrew Coyle, international expert and moderator.
19:00 – 21:00	Reception hosted by the Dominican Republic. Hotel Intercontinental

Thursday 4 August

09:00 – 10:30	Session 3: Health and sanitary conditions in prisons Health and sanitary conditions in prisons in the region, including the impact on the mental health of prisoners, the spread of infectious diseases, and identification of good practices in the region. Presenter and moderator: Víctor de Currea Lugo, international expert.
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10:30 – 11:00	Coffee break
11:00 – 12:30	<p>Session 4: Treatment of prisoners of special categories Special categories of prisoners: sentenced to life imprisonment, with long sentences, under very high security conditions, in need of medical assistance for their physical or mental health, foreign nationals, minority groups, older prisoners, women, children and juveniles.</p> <p>Presenter and moderator: Baroness Vivien Stern, international expert.</p>
12:30 – 14:00	<i>Lunch</i>
14:00 – 15:30	<p>Session 5: Prison staff. Presentation of the new prison model of the Dominican Republic. Selection and training of prison staff, and identification of good practices in the region.</p> <p>Presenter and moderator: Roberto Santana, National Coordinator for the New Model for Prison Management.</p>
15:30 – 16:00	<p>Presentation of the Centre of Excellence on Prison Reform and Reduction of Drug Demand.</p> <p>Presenter and moderator: Sandra Valle, UNODC Senior Interregional Adviser.</p>
16:00	<p>Visit to a model prison facility.</p> <p>Centro Penitenciario de San Pedro.</p>

Friday 5 August

09:00 – 10:30	<p>Session 6: Treatment of prisoners and training and rehabilitation programmes. Post-prison programmes Treatment of prisoners (living conditions, services, prohibition of torture and other cruel, inhuman or degrading treatment) and providing meaningful activities and programmes as job training, education, vocational training, preparation for release and support thereafter, and the identification of good practices in the region.</p> <p>Presenter and moderator: María-Noel Rodríguez, UNODC expert.</p>
10:30 – 11:00	Coffee break
11:00 – 12:30	<p>Session 7: External oversight of prisons External oversight and access to prisons by the community.</p> <p>Presenter and moderator: Elias Carranza, Director-General of ILANUD.</p>
12:30 – 14:00	<i>Lunch</i>
14:00 – 15:00	<p>Session 8: Regional cooperation and technical assistance Benefits of regional cooperation and identification of needs and priorities for technical assistance in the region.</p> <p>Presenters and co-moderators: Valerie Lebaux, Chief UNODC Justice Section and Danissa Cruz Taveras, Deputy Prosecutor of the Attorney General's Office.</p>
15:00 – 17:00	<p>Session 9: Development of recommendations for the intergovernmental panel opened</p> <p>Presentation of findings: Professor Andrew Coyle, international expert.</p>
17:00 – 17:30	<p>Closing ceremony</p> <p>Radhamés Jiménez Peña, Attorney General, Dominican Republic.</p>

Annex II

List of participants

* The list of participants is provided in the language in which it was notified to the Secretariat (English, Spanish and Portuguese).

Nr.	Country/Organization	Name	Title
	Bolivia		
1		Yolanda Zaida Vidal Muriel	Responsable del Escritorio de Derechos Humanos - Cancillería
2		Jorge Antonio Sueiro Fernández	Director General Régimen Penitenciario - Ministerio de Gobierno
	Brazil		
3		Marcelo Winch Schmidt	Ombudsman for the Prison System
4		Mara Fregapani Barreto	Coodenador Geral Reintegracao Social e Ensino
5		Geder Luis Rocha Gomez	Presidente do Conselho Nacional de Politica Criminal e Penitenciaria, Ministerio da Justiça e Promotor de Justiça do Estado da Bahia
6		Erivaldo Santos	Juiz Federal e membro do Conselho Nacional de Política Criminal e Penitenciária do Ministério da Justiça
7		Carolina Souza	Law clerk
8		Tatiana Esnarriaga Arantes Barbosa	Segunda Secretaria, Embajada de Brasil, Vienna
	Chile		
9		Sebastián Valenzuela Agüero	Jefe División de Defensa Social, Ministerio de Justicia
10		Félix Asencio Hernández	Abogado de la División de Defensa Social del Ministerio de Justicia
	Colombia		
11		Luis Felipe Henao Cardona	Secretario General del Ministerio de Interior y Justicia
12		Germán Cordoba Ordoñez	Asesor del Despacho del Ministerio de Interior y Justicia
	Ecuador		
13		Johana Farina Pesántez Benítez	Ministra de Justicia, Derechos Humanos y Cultos
14		Teresa Alexandra Coba Gómez	Asesora Despacho Ministra de Justicia Derechos Humanos Y Cultos
	El Salvador		
15		Nelson Rauda Portillo	Sub Director General de Centros Penales

16		Manuel de Jesús Sánchez Rivera	Secretario General de Centros Penales
	Guatemala		
17		Julio César Coyoy Alvarez	Subdirector de Rehabilitación Social
18		Rudy Giovanni Esquivel Barrientos	Relacionista Público
	México		
19		Juan Jorge Martínez Bautista	Director General de Política Penitenciaria
20		Issac Armando Arteaga Cano	Asesor del Subsecretario del Sistema Penitenciario Federal
21		José Patricio Patiño	
	Nicaragua		
22		Ana Isabel Morales Mazún	Ministra de Gobernación
23		Julio Guillermo Orozco	Subdirector General del Sistema Penitenciario Nacional
	Panamá		
24		Roxana Méndez	Ministra de Gobierno
25		Lizbeth Cunningham	Asesora del Despacho de la Ministra de Gobierno
26		Cristobal Gondola	Director del Complejo Penitenciario Nueva Esperanza
27		Mauricio Salazar	Director del Centro de Detención de Tinajitas
28		Ismael Flores	Director del Centro Penitenciario de David
29		Linda Moreira	Directora del Centro Penitenciario La Joyita
30		Alma De León	Directora del Centro Penitenciario de Llano Marín
31		José Batista	Director del Centro Penitenciario La Joya
32		María Castellero	Subdirectora de la Academia de Formación Penitenciaria
	Perú		
33		Janmer Mozombite Ruiz	Director de la Oficina Regional Lima del Instituto Nacional Penitenciario
34		Keneth Augusto Mora Landeo	Director de Tratamiento
	República Dominicana		
35		Manuel de Jesús Pérez Sánchez	Asesor del Poder Ejecutivo para Asuntos Penitenciarios
36		Magistrado Rafael Báez	Juez de Ejecución de la Pena de la Provincia Santo Domingo

37		Fray Aristides Jiménez Richardson	Capellán General de Prisiones
38		Lino Vásquez Samuel	Comisionado de Apoyo a la Reforma y Modernización de la Justicia
39		Mario Acosta	Procurador General Adjunto Encargado de Asuntos Penitenciarios
40		Ysmael Paniagua	Subcoordinador Nacional de Seguridad del Modelo de Gestión Penitenciaria.
41		Ramón Quiñones	Embajador de República Dominicana en Austria
42		Roberto Santana	Coordinador Nacional del Nuevo Modelo de Gestión Penitenciaria
43		Roberto Hernández	Centro de Excelencia de ONU
44		Sandra Fernández	Sub Coordinadora Nacional de Asistencia y Tratamiento del NMGP
45		Lucia Fermín Gonzalez	Coordinadora Rehabilitación, Consejo Nacional de Drogas
46		Danissa Cruz Taveras	Fiscal Adjunta al Despacho del Procurador General
47		Fabiola Sandoval Ortiz	OCR ONU - Pasante
48		Francesca Laporta	OCR ONU - Pasante
49		Amado José Rosa	Procurador Corte, S.F.M
50		Carlos Manuel del Rosario	Asistente Capellán Feneral de Prisiones
51		Roberto Adonis Martín	Comisionado de Justicia
	Saint Lucia		
52		Lorenzo Rudolph Francis	Attorney General, Attorney General Chambers, Government of Saint Lucia
	Saint Martin		
53		Rudsel Casimiro Ricardo	Director (Prisión de Point Blanche)
	Uruguay		
54		Silvia Lourdes Izquierdo Vila	Asesora Jurídica del Sr. Ministro del Interior
55		María Gabriela Fulco Fernández	Asesora del Ministro del Interior en Materia Penitenciaria
	Association of Caribbean Heads of Correction and Prison Services (ACHCPS)		
56		Hilary Guillette Herman	Public Relations Officer (PRO) and Director of Saint Lucia Correctional Services, Government of St. Lucia
	OEA		
57		Cristian Gabriel Taboada	Specialist, Department of Public Security, Secretariat for Multidimensional Sec.

	ILANUD		
58		Elías Carranza	Director ILANUD
	EXPERTS		
59		Emilio Viano	Experto Internacional, Fundacao Internacional Penal Penitenciaria
60		Edmundo Oliveira	Experto Internacional, Fundacao Internacional Penal Penitenciaria
61		Vivien Helen Stern	Experta Internacional
62		Andrew Gerard Coyle	Experto Internacional
63		Víctor De Currea-Lugo	Experto Internacional
	UNHCR		
64		Gonzalo Vargas Llosa	Jefe de Misión de ACNUR en la República Dominicana
	Secretariat		
65		Sandra Valle	Senior Inter-regional Legal Adviser, UNODC, Vienna
66		Valerie Lebaux	Chief, Justice Section, UNODC, Vienna
67		María Noel Rodríguez	Project Coordinator, UNODC, Panama
68		Alejandro Matta	Drug Control and Crime Prevention Officer, UNODC, Vienna
69		Juliana Erthal	Strategic Analyst Coordinator, UNODC, Panama
70		Susanne Wilson	Project Assistant, UNODC, Panama
