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**Commission on Crime Prevention  
and Criminal Justice**

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Item 6 of the provisional agenda\*

**Use and application of United Nations standards and  
norms in crime prevention and criminal justice**

**Proposal of the Governments of Argentina, Brazil, South  
Africa, United States of America, Uruguay and Venezuela\*\***

*Summary*

In line with paragraph 13 of the Report of the Secretariat entitled “Work of the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners” (E/CN.15/2013/23), this Conference Room Paper contains a preliminary joint submission by Argentina, Brazil, South Africa, United States of America, Uruguay and Venezuela proposing the revision of selected standard minimum rules, as a basis for further discussion. It was drafted during the Expert Group Meeting held in Buenos Aires from 11 to 13 December 2012 and was officially submitted to the Secretariat on 21 March 2013 with the request that it be brought to the attention of the twenty-second session of the Commission on Crime Prevention and Criminal Justice.

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\* E/CN.15/2013/1.

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**OPEN-ENDED INTERGOVERNMENTAL EXPERT  
GROUP ON THE STANDARD MINIMUM RULES FOR  
THE TREATMENT OF PRISONERS, BUENOS AIRES,  
ARGENTINA, 11-13 DECEMBER 2012**

**PROPOSAL OF THE GOVERNMENT OF ARGENTINA,  
BRASIL, SOUTH AFRICA, URUGUAY, UNITED STATES OF  
AMERICA, VENEZUELA**

**Standard Minimum Rules for the Treatment of Prisoners  
Adopted by the First United Nations Congress on the  
Prevention of Crime and the Treatment of Offenders, held  
at Geneva in 1955, and approved by the Economic and  
Social Council by its resolutions 663 C (XXIV) of 31 July  
1957 and 2076 (LXII) of 13 May 1977**

RULE 1) The following rules are not intended to describe in detail a model system of penal institutions. They seek only, on the basis of the general consensus of contemporary thought and the essential elements of the most adequate systems of today, grounded in respect for human rights and fundamental freedoms, to set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions.

RULE 1 bis) The United Nations Standard Minimum Rules for the Treatment of Prisoners are inspired by the principles proclaimed in the Charter of the United Nations and in various United Nations conventions and declarations, recognizing that the dignity and worth of the human person is fundamental to the establishment of conditions under which justice and respect for obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life.

These rules are addressed to prison authorities, including senior management, administrative and professional corrections staff and head care staff; and to professionals throughout the criminal justice system whose actions have impact on prisoners or their families, including policymakers, legislators, prosecutors, defence counsel, legal aid practitioners, the judiciary, probation services, counsellors and social services providers.

(2) In view of the great variety of legal, social, economic and geographical conditions of the world, it is evident that not all of the rules are capable of application in all places and at all times. They should, however, serve to stimulate a constant endeavour to overcome practical difficulties in the way of their application, in the knowledge that they represent, as a whole, the minimum conditions which are accepted as suitable by the United Nations.

[RULE 2 bis) These Rules are based on the consideration that all person deprived of liberty, which is subject to the jurisdiction of any of the States Members of the United Nations, must be treated with humanity, with full respect for their inherent

dignity, their fundamental rights and guarantees, and in strict adherence to international human rights instruments.

In their role of guarantor, States must ensure to all person deprived of liberty their respect for life and personal integrity, minimum conditions compatible with their dignity, and the prohibition, without exception, of any acts of torture, cruel, inhuman or degrading treatment. [proposal ARGENTINA/BRASIL/URUGUAY/VENEZUELA]]

The international obligations undertaken by the Member States are to be fully respected and implemented.

RULE 2 ter) States shall take into account that the present Rules are supplemented by the following specific Rules: the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) GA Res. 65/229, U.N. GAOR, 65th Sess., U.N. Doc. A/RES/65/229 (Dec. 21, 2010), the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), and any other international instrument applicable to the matter.

RULE 3) The rules cover a field in which thought is constantly developing. They are not intended to preclude experiment and practices, provided these are in harmony with the principles and seek to further the purposes which derive from the text of the rules as a whole. It will always be justifiable for the central prison administration to authorize departures from the rules in this spirit, provided the prisoners human rights and fundamental freedoms are respected.

RULE 3 bis) States acknowledge that the excessive increase of prison populations and overcrowding constitute a challenge for the effective application of these minimum rules.

RULE 5) The rules do not seek to regulate the management of institutions set aside for young persons such as juvenile detention centres or correctional schools, but in general part I would be equally applicable in such institutions. For specific guidance applicable to juvenile offenders see United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines). General Assembly resolution 45/112, annex. of 14 Dec 1990 and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) General Assembly resolution 40/33 of 29 November 1985.

RULE 5 bis) The provisions of the Rules should not be interpreted as a limitation, suspension or restriction of the rights and guarantees of persons subject to these rules, recognized in national and international law.

If there are two possible interpretations the one that provides the greatest protection should be applied.

RULE 6) (1) The following rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, age, ethnic origin, cultural traditions, disability, gender identity and sexual orientation or other status. States should develop policies to protect those vulnerable groups.

(2) It is important to recognize that the principle underlying Rule 6(1) means that no prisoner should be treated in a disadvantageous manner in respect of any of the listed criteria. This does not imply, however, that there is a prohibition against different treatment of prisoners for specific reasons and in line with their special needs.

(3) In the application of these rules, the religious beliefs and moral precepts of the group to which a prisoner belongs are to be respected.

(4) All persons subject to these rules shall be treated with respect for their inherent dignity. Torture, cruel, inhuman or degrading treatment or punishment is prohibited.

(5) It is the responsibility of the correctional system to provide penitentiary conditions in a safe, secure, humane, and transparent manner with the goal of an eventual release of prisoners upon the completion of their sentence and their successful reintegration into society. In this regard an effective prison management program should take into consideration the prisoners needs with respect to education, meaningful work, health care, exercise and cultural activities.

[RULE 6 bis) Prisoners shall be protected against all kinds of threats and acts of torture, execution, forced disappearance, cruel, inhuman or degrading treatment, sexual violence, corporal punishment, collective punishment, forced or coerced treatment intervention, methods intended to obliterate the personality or decrease the physical or mental capacity of the person. [proposal ARGENTINA, BRASIL, URUGUAY, VENEZUELA]]

RULE 7) (1) In every place where persons are imprisoned there shall be kept a record, which may be a hard-copy system or an electronic system of records, that registers every person admitted to, held or released from the facility and the system. Sufficient procedures shall be in place to prevent unauthorized access or modification of any information contained in these registries. With respect to each prisoner received, the record will include among others:

- (a) Information concerning his identity;
- (b) The reasons for his commitment and the authority therefor;
- (c) The day and hour of his admission and release.

(2) No person shall be received in an institution without a valid commitment order of which the details shall have been previously entered in the register.

RULE 7 bis) (1) Consistent with good case management, in addition to the information provided in Rule 7(1)(a)-(c), records should be maintained on non-routine events affecting a prisoner; for example, transfers, medical interventions, infractions, injuries, claims, disciplinary measures, achievements, complaints, requests, and deaths.

(2) All such records shall be kept confidential and made available only to those whose professional responsibilities require access to such records.

(3) Prisoners should be provided copies of the records pertaining to them, upon request.

RULE 8) The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their age, gender identity, criminal record, the legal reason for their detention, other relevant categories and the necessities of their treatment. Thus, ( a ) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate; ( b ) Untried prisoners shall be kept separate from convicted prisoners; ( c ) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence; ( d ) Young prisoners shall be kept separate from adults.

RULE 16) In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of their personal hygiene according to their needs, men shall be enabled to shave regularly.

RULE 22) (1) The provisions of health care services for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care as is available in the community, and should have access to the health services without discrimination on the grounds of their legal status or their ability to pay.

(2) At every institution there shall be available the services of at least one qualified physician. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental or psychosocial illness and disability.

(3) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.

(4) The services of a qualified dental officer shall be available to every prisoner.

(5) For the special needs of women, Rule 6 of the Bangkok Rules, supplements Rules 22 to 26 of the Standard Minimum Rules on the Treatment of Prisoners.

(6) Appropriate health services should be provided to prisoners who have problems with substance abuse consistent with community standards.

RULE 25) (1) The relationship between the physician or health care practitioner and prisoners is governed by the same ethical principles as those between the physician or health care practitioner and any other patient. The primary duty of medical and health care staff in prison is to treat prisoners as patients, to base health care decisions on clinical grounds and act in line with the normal principles of their profession.

(2) The physician or health care practitioner shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.

(3) The physician or health care practitioner shall report to the director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

(4) The confidentiality of medical information shall be respected, unless doing so would result in a real imminent threat of harm to the patient or to others.

RULE 30) (1) No prisoner shall be punished except in accordance with due process and the terms of such law or regulation, and never twice for the same offence.

(2) No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence.

(3) The competent authority shall conduct a thorough examination of the case.

(4) The prisoner shall have the opportunity to seek judicial review.

(5) Where necessary and practicable the prisoner shall be allowed to make his defence through an interpreter.

RULE 31) Corporal punishment, punishment by placing in a dark cell, isolation, reduction of diet and water, [collective punishment], and all cruel, inhuman or degrading punishments shall be completely prohibited.

RULE 31 bis) Restrictions on visitation as a punishment should only be used in exceptional circumstances.

[RULE 32. 1) Confinement constitutes an exceptional measure applied only for severe cases and only to preserve the life and integrity of prisoners, and shall be applied when the health care staff, after examining the person has certified in writing that he/she is fit to sustain it.

(2) The same shall apply to any other punishment that may be prejudicial to the physical or mental health of the person deprived of liberty. In no case may such measures be contrary to or depart from the principle stated in rule 31.

(3) The health care staff shall visit daily the persons deprived of their liberty undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

Confinement orders shall be authorized by competent authority and shall be subjected to judicial review. [proposal ARGENTINA, URUGUAY, BRASIL, VENEZUELA]]

[RULE 32 bis. (1) The use of restricted living conditions and privileges shall be limited to situations of serious rule infractions, violent behaviour, and cases of personal protection of self or others. It shall never be used as punishment for a particular crime or discrimination in violation of Rule 6. All conditions associated with restricted living conditions shall comply with the standards for other prisoners, such as light, ventilation, heating, sanitation, water, and adequate personal space, including bedding and linens. At no time shall restricted living conditions involve isolation from human contact or interaction, including staff during any shift.

(2) Admission to restricted living conditions shall only be imposed through a transparent administrative process and should be applied to ensure the safety, security, and orderly operation of the facility or to protect the public.

(3) Extended periods of restricted living conditions shall be regularly reviewed through an administrative process that includes an evaluation of the prisoner's medical and mental conditions, current behaviour, original reason for admission,

and other factors that may be relevant. The decisions of the administrative committee shall be reviewed by the appropriate higher authority. A reduction in diet shall never be inflicted. Absent security justifications, visitation shall not be restricted.

(4) The physician or health care practitioner shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health. [proposal UNITED STATES SUDAFRICA]]

RULE 36) (1) Every prisoner shall have the opportunity of making requests or complaints to the director of the institution or the officer authorized to represent him.

(2) It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present.

(3) Every prisoner shall be allowed, directly or through someone acting on his behalf, to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels, including in a safe and confidential manner.

(4) Every request or complaint shall be responded to appropriately and without undue delay.

(5) Prisoners who provide information or make complaints shall be protected against retaliation by facility personnel, including staff and other inmates.

(6) For special needs of women, Rule 25 of the Bangkok Rules supplements rule 36.

RULE 36 bis) For the effective fulfilment of the rights of prisoners that are enshrined in these Rules, States shall inform them their right to legal information, appeals, and complaints and must ensure the same access to legal representation without delay or censorship, ensuring confidentiality.]

RULE 44) (1) Upon the death or serious illness of, or serious injury to a prisoner, or his removal to an institution for the treatment of mental or psychosocial illness or disability, the director shall at once inform the spouse, if the prisoner is married, or the nearest relative and shall in any event inform any other person previously designated by the prisoner. In the event of a death in custody, an investigation by an impartial and competent authority shall be conducted and if warranted, the findings turned over to appropriate law enforcement authorities.

(2) A prisoner shall be informed at once of the death or serious illness of any near relative. In case of the critical illness of a near relative, the prisoner should be authorized, whenever circumstances allow, to go to his bedside either under escort or alone.

(3) Every prisoner shall have the right to inform at once his family of his imprisonment or his transfer to another institution

RULE 44 bis) Prison authorities should institute policies provided that any person who die in custody will have a proper burial, in those cases where there is no other responsible party.

RULE 47 (1) The personnel shall possess an adequate standard of education and intelligence.

(2) Before entering on duty, the personnel shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests.

(3) After entering on duty and during their career, the personnel shall maintain and improve their knowledge and professional capacity by attending courses of in-service training to be organized at suitable intervals.

(4) Staff training should occur upon entry and at suitable intervals and should include relevant national and international laws and standards, and applicable codes of conduct and similar provisions which guide correctional workers in their daily work and interactions with inmates.

(5) Staff training should be conducted on an ongoing basis and be reflective of current evidence-based correctional practices. The training should be appropriate to the special needs of offenders and include information regarding first aid, health, social assistance, general social and psychological considerations, reporting and records management designed to encourage the importance of communication between staff and inmates realizing that staff are the most important resource in good prison management.

RULE 55) (1) There shall be a mechanism for regular inspections of penal institutions and services by qualified and experienced inspectors appointed or assigned by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.

(2) Inspectors should be allowed:

(a) Access to all information, including on numbers of persons deprived of their liberty and places and locations of detention, as well as to all information relevant to the treatment of persons deprived of their liberty, including conditions of detention;

(b) The power to freely choose which places of detention to visit, including unannounced visits at their own initiative, and which persons deprived of liberty to interview;

(c) And authority to conduct private and fully confidential interviews with persons deprived of their liberty in the course of visits;

(d) Make recommendations to competent authorities

(3) For special needs of women with regard to inspections, Rule 25 of the Bangkok Rules supplements rule 55.

RULE 55 bis) (1) Internal systems to monitor and documents adherence to applicable laws, regulations, policies and procedures governing the management and administration of such institutions shall be adopted, identifying the



responsibilities of staff, and shall include procedures for reporting, investigating, and where appropriate referring to legal authorities allegations of torture, excessive use of force, or other abuses. These internal systems shall be available to inspectors.

(2) Prisoners, staff, inspectors, or others who provide information, including regarding abuses, shall be protected against retaliation by facility personnel, including staff and other inmates.

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