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**OPEN-ENDED INTERGOVERNMENTAL EXPERT GROUP
ON THE STANDARD MINIMUM RULES FOR THE
TREATMENT OF PRISONERS**

VIENNA, AUSTRIA, 25 – 28 March 2014

**REVISION OF THE UNITED NATIONS STANDARD MINIMUM
RULES FOR THE TREATMENT OF PRISONERS¹**

Addendum

Prepared by

Inter-American Commission on Human Rights, Organization of American States²

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² The opinions expressed in this report are those of the authors and do not necessarily reflect those of the United Nations Office on Drugs and Crime.



INTER - AMERICAN COMMISSION ON HUMAN RIGHTS
COMISION INTERAMERICANA DE DERECHOS HUMANOS
COMISSÃO INTERAMERICANA DE DIREITOS HUMANOS
COMMISSION INTERAMÉRICAINÉ DES DROITS DE L'HOMME



ORGANIZACIÓN DE LOS ESTADOS AMERICANOS

WASHINGTON, D.C. 20006 E E U U

January 21, 2014

REF: Revision of the United Nations Standard Minimum Rules for the Treatment of Prisoners / Addendum to the institutional submission of October 8, 2013.

Dear Sirs,

I have the pleasure of writing you on behalf of the Inter-American Commission on Human Rights (IACHR). The purpose of the present is to provide you with additional information (an addendum) on the process of revision of the Standard Minimum Rules for the Treatment of Prisoners, specifically for the Third Meeting to be held this month in Brasilia.

In this regard, the Inter-American Commission reiterates its previously expressed position that a true review process of the Minimum Rules should, in the first place, be open and inclusive, and recognize the validity of contributions from non-state actors, such as civil society and academia, and regional and universal mechanisms on human rights. Such a process should permit the integral, not partial, revision of the Minimum Rules in order to maintain the consistency of the text and the coherency between different rules, among other reasons.

The IACHR learned of the initiative presented by the CELS (Argentina) and Conectas (Brazil), in which these organizations named other topics not contemplated in the list of the nine, pre-established thematic areas that they considered important. Among those topics, the Commission considers essential the topic concerning humiliating searches or improper personal inspections (Document available in http://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/IEGM_Brazil_Jan_2014/CELS_Y_CONECTAS.pdf.)

United Nations' Office on
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The Commission, over recent years, has noted with concern that one of the most common problems in the Americas, with some variables depending on the country concerned, is the practice of conducting requisitions or humiliating personal inspections on the prisoner or on persons who enter prisons, such as family members, defense counsel, or visitors. In this sense, the IACHR considers it beneficial for the purposes of this review process and for the better protection of persons deprived of liberty that this topic is included among those that will be discussed at the Third Meeting.

With regard to this matter, the IACHR has laid down in its *Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas*, that:

Principle XXI

Bodily searches, inspection of installations and other measures

Whenever bodily searches, inspections of installations and organizational measures of places of deprivation of liberty are permitted by law, they shall comply with criteria of necessity, reasonableness and proportionality.

Bodily searches of persons deprived of liberty and visitors to places of deprivation of liberty shall be carried out under adequate sanitary conditions by qualified personnel of the same sex, and shall be compatible with human dignity and respect for fundamental rights. In line with the foregoing, Member States shall employ alternative means through technological equipment and procedures, or other appropriate methods.

Intrusive vaginal or anal searches shall be forbidden by law.

The inspections or searches in units or installations of places of deprivation of liberty shall be carried out by the competent authorities, in accordance with a properly established procedure and with respect for the rights of persons deprived of liberty.

Furthermore, the Commission in its *Report on the Human Rights of Persons Deprived of Liberty in the Americas* pointed out that:

The IACHR reiterates that the States not only have the authority but the obligation to maintain security and order inside prisons, which implies proper control of the entry of illicit articles such as weapons, drugs, liquor, cell phones, etc. However, implementation of these security systems must take place in a way that respects the fundamental rights of inmates and their families. It is essential that prison guards and external security personnel be trained to strike a balance between exercising their security functions and treating visitors with dignity.

It is important to have clear standards and information about the types of items that are allowed to enter the prison or are prohibited, and that relatives be made aware of them. A best practice in this respect is to hang posters or signs in locations visible to the public. The important thing is to create a system in which variations are infrequent and these standards are applied in a consistent and organized manner to reduce opportunities for arbitrariness and maintain a climate of mutual respect between authorities and visitors.

Furthermore, in practice, degrading or arbitrary treatment of inmates' relatives is a factor that significantly raises tension and stress levels in the prison population, which can eventually result in violence or protest demonstrations¹.

In sum, the Commission considers that, in view of the need to set universal standards for requisitions or inspections of people in detention centers – an issue in the Americas confirmed by the monitoring mechanisms of the United Nations – this topic should be incorporated as a subject of discussion in the current review of the Standard Minimum Rules.

Sincerely,



Emilio Álvarez Icaza L.
Executive Secretary

CC. Conectas
Centro de Estudios Legales y Sociales (CELS)

¹ IACHR, Report on the Human Rights of Persons Deprived of Liberty in the Americas, OEA/Ser.L/V/II. Doc. 64, December 31, 2012, paras. 591 – 593.,