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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

**RESPONSE OF THE GOVERNMENT OF SOUTH AFRICA¹
TO NOTE VERBALE CU 2013/129/DO/JS**

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**SOUTH AFRICA'S PRELIMINARY VIEWS ON THE REVISION OF THE
UNITED NATIONS STANDARD MINIMUM RULES FOR THE
TREATMENT OF PRISONERS**

DATE: 30 SEPTEMBER 2013

1 BACKGROUND AND MANDATE

- 1.1 South Africa has participated and contributed to this process and therefore is in support of the cosmetic changes to the Standard Minimum Rules (SMRs) for the Treatment of Prisoners as opposed to the overhaul reviewal.
- 1.2 South Africa participated in the Second Open-Ended Intergovernmental Expert Group (IEG) Meeting on the United Nations (UN) SMRs for the Treatment of Prisoners held in Buenos Aires, Argentina from 11 – 13 December 2012.

The purpose of the meeting was continuing with the review of the UN Standard Minimum Rules for the Treatment of Prisoners, and to share best practices. The intention was to make inputs to the UN Commission on Crime Prevention and Criminal Justice to approve amendments to the Standard Minimum Rules.

2. DISCUSSION

The UN noted that South Africa, together with a large number of countries, confirmed that its national legislation on the treatment of prisoners is based on and had greatly been influenced by the UN SMRs. It was also stated upfront that the majority of the Rules adopted in 1957 are still applicable today in setting the minimum standards for the treatment of prisoners. It is therefore necessary to adapt some of the new terminology in order to reflect present day usage.

South Africa, supported by other countries, suggested minor or so-called “cosmetic changes” as opposed to the total overhaul of the SMRs. The aim is to bring the Rules in line with new developments in the international norms and standard, as well as domestic policies, without lowering the standards.

The meeting then considered the following nine preliminary areas identified during its first meeting held in Vienna:

- Respect for prisoners’ inherent dignity and value as human beings;
- Medical and health services;
- Disciplinary action and punishment, including the role of medical staff, solitary confinement, and reduction of diet;
- Investigation of all death in custody, as well as any signs or allegations of torture or inhumane or degrading treatment against prisoners;
- Protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances;
- The right of access to legal representation;
- Complaints and independent inspection;
- The replacement of outdated terminology; and
- Training of relevant staff to implement the SMR’s.

South Africa supported an approach focusing on targeted amendments of the Rules:

By proposing targeted amendments as opposed to an overall revision, it is acknowledged that most of the Rules are still applicable today, but that only certain limited amendments (linked to terminology) are needed together with a few additions, to protect additional vulnerable groups for instance. Such an approach will provide the United Nations with a revised and up to date text without running the risk of re-negotiating the entire text.

South Africa reiterates the importance of technical support in the implementation of the SMRs including the capacitating of staff among others.

South Africa reaffirms its commitment and interest in this process and it is against this background that my delegation is co-sponsoring this side event.

The issues identified for consideration by respective Nationalities and for the revision of the Standard Minimum Rules are attached as Annexure A.

**ISSUES IDENTIFIED FOR CONSIDERATION BY RESPECTIVE NATIONALITIES
AND FOR THE REVISION OF THE STANDARD MINIMUM RULES**

1. Respect for Prisoners' Inherent Dignity and Value as Human Beings:

- i) To extend the grounds on which discrimination should be prohibited, such as age, ethnic origin, cultural beliefs and practices, disability, gender identity and sexual orientation
- ii) To re-allocate Rules 57 – 59 and Rule 60(1) of the SMRs to become principles of general application in an amended Rule 6 (***Basic Principles***)
- iii) To add further principles of general application, which are recognised in other International Standards and Norms, to an amended Rule 6, including:
 - The treatment of prisoners with respect for the inherent dignity and value of the human person;
 - The prohibition of torture and other cruel, inhuman or degrading treatment or punishment;
 - The retention of prisoners' human rights and fundamental freedoms except for those limitations demonstrably necessitated by the fact of incarceration;
 - Conditions of imprisonment and treatment of prisoners to protect their personal safety, and
 - Allocation of prisoners to prisons close to their homes or places of social rehabilitation, to the extent possible

2. Medical and Health Services:

- i) To add reference, in Rule 22, to the principle of equivalence of health care:
 - To clarify that health care services in prison settings are to be provided free of charge without discrimination;
 - To refer to the need of having in place evidence-based HIV, tuberculosis and other disease prevention, treatment, care and support services as well as to drug dependence treatment programmes in prison settings which are complementary to, and compatible with those in the community;
 - To add that health policy in prisons shall be integrated, or at least compatible with, national health policy;

- To address the need to prepare and maintain accurate, up-to-date and confidential medical files of all prisoners, and under the exclusive responsibility of the health centre / health staff;
 - To refer to a global and comprehensive approach of health care, preventive and curative, taking into account health determinants such as hygiene; and
 - To add the need to organize the continuity of treatment and care
- ii) To clarify, in Rule 23(1), that beyond pre- and post-natal care, a broad range of gender-specific health care services should be available to women prisoners in line with the Bangkok Rules
- iii) To add text to Rule 23(2) that would provide ongoing health care services to children living with their mothers in prison
- iv) To add a paragraph to Rule 24 which would confirm the ethical obligation of physicians and nurses in prisons to record all signs of torture and other cruel, inhuman or degrading treatment or punishment of which they may become aware in the context of medical examinations upon admission, or when providing medical care to prisoners any time thereafter, using the necessary procedural safeguards, and to report such cases to the competent medical, administrative or judicial authority, after having obtained the explicit consent of the patient concerned; or in exceptional circumstances, without the explicit consent of the patient concerned in the case he or she is unable to express him- or herself freely, and without putting the life and safety of the patient and / or associated persons at risk
- v) To elaborate, in Rule 25(1), on
- The primary duties and obligations of health care staff in prison settings, in particular to act in line with medical ethics core principles
 - To provide patients in a professionally independent manner, with protection of their physical and mental health
 - To not be involved in any relationship with prisoners the purposes of which is not solely to evaluate, protect or improve their health
 - To respect the principle of informed consent in the doctor-patient relationship and the autonomy of patients with regard to their own health, including in the case of HIV testing, the screening of a prisoner's reproductive health history, etc

- To respect the confidentiality of medical information, unless doing so would result in a real and imminent threat of harm to the patient or to others, and
- To abstain under all circumstances from engaging, actively or passively, in acts which may constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment

vi) To allow in Rule 26 *bis* for:

- The participation of prisoners in clinical trials accessible in the community and to other health research only in case it is expected to produce a direct and significant benefit to their health, and include a requirement for procedural safeguards to ensure free and informed consent, complemented by external review
- To prohibit a detained or imprisoned person, even with his or her consent, from being subjected to any form of medical or scientific experimentation which may be detrimental to his or her health

3. Disciplinary Action and Punishment, Including the Role of Medical Staff, Solitary Confinement and Reduction of Diet:

- i) To add a paragraph to Rule 27 encouraging the establishment of, and resort to, mediation mechanisms to solve conflicts
- ii) To require that the principles and procedures governing searches be included into the areas in Rule 29, which are to be determined by law or by regulation of the competent administrative authority
- iii) To add a new Rule 29 bis providing an overall principle governing the search of prisoners and visitors in line with international standards and norms, including reference to the principles of legality, necessity and proportionality
- iv) To add, in Rule 31, a prohibition on imposing solitary confinement as a disciplinary punishment for:
 - Juveniles
 - Pregnant women
 - Women with infants
 - Breastfeeding mothers
 - Prisoners with mental disabilities

- For life-sentenced prisoners and prisoners sentenced to death by virtue of their sentence, or
 - To pre-trial detainees as an extortion technique
- v) To limit, in Rule 32(1), the imposition of punishment by solitary confinement to a disposition of last resort to be authorized by the competent authority, to be applied in exceptional circumstances only and for as short a time as possible, to encourage efforts to increase the level of meaningful social contact for prisoners while in solitary confinement. And to provide for such punishment to be properly recorded
- vi) To delete in Rule 32, the reference to reduction of diet as a punishment as well as reference to the medical officer examining prisoners and certifying them fit for punishment

4. Investigations of All deaths in Custody, as Well as of Any Signs or Allegations of Torture or Inhuman or Degrading Treatment of Punishment:

- i) To require, in Rule 7, that information on the circumstances and causes of death, and of serious injuries of a prisoner, and the destination of mortal remains be included in the respective prisoner file (management system), as well as cases of torture, confinement and punishments
- ii) To add a new Rule 44 bis, including an obligation of prison administrations to initiate and facilitate prompt, thorough and impartial investigations of all incidents of death in custody / incidents of unnatural, violent or unknown death; or shortly following release, including with independent forensic or post mortem examinations, as appropriate
- iii) To clarify, a in separate paragraph of Rule 44 bis, that the findings of the investigation should be disclosed to competent authorities and selected control bodies, whereas further disclosure should respect the need to protect personal data as per national law
- iv) To add a new Rule 54 bis, including an obligation of prison administrations or other competent bodies, as appropriate, to initiate prompt and impartial investigations whenever there are reasonable grounds to believe that an act of torture, or other inhuman or degrading treatment or punishment has been committed in prison settings, irrespective of whether or not a complaint has been received

- v) To add a new paragraph to Rule 44 addressing the need of prison administration to provide for / facilitate culturally appropriate burials in case of custodial deaths

5. Protection and Special needs of Vulnerable Groups Deprived of Their Liberty, Taking into Consideration Countries in Difficult Circumstances:

- i) To add a paragraph to Rule 6 addressing prisoners with special needs, including:
- Women
 - Children
 - Older prisoners
 - Prisoners with disabilities
 - Prisoners with mental health care needs
 - Sick prisoners, in particular AIDS patients, tuberculosis patients, or terminally ill patients
 - Drug dependent prisoners
 - Ethnic and racial minorities, and indigenous people
 - Foreign national prisoners
 - Lesbian, gay, bisexual and transgender (LGBT) prisoners
 - Prisoners under sentence of death
 - People in other situations of vulnerability

6. The Right of Access to Legal Representation:

- i) To add, in rule 35(1), the right to access legal advice to the information with which every prisoner should be provided upon admission
- ii) To provide, in Rule 30, for a qualified right to legal advice in the context of disciplinary proceedings, i.e. as far as breaches of discipline as prosecuted as crimes (or in serious disciplinary cases involving heavy penalties or complicated points of law)
- iii) To grant, in Rule 37, the right to meet and consult with a legal advisor of own choice to all prisoners, at their own expense, on any legal matter, and under similar circumstances as established in Rule 93, to be complemented by access of imprisoned persons to legal aid mechanisms to the maximum extent possible, including at the pre- and post-trial stages, in line with international standards and norms

- iv) To grant, in Rule 37, those prisoners who do not speak the local language access to an interpreter in the course of correspondence or meetings with legal advisors
- v) To replicate, in Rule 93, language of more recent international standards and norms addressing the access of detainees to legal advice, including to be granted such right without delay, interception and in full confidentiality, subject to suspension or restriction only in exceptional circumstances to be specified by law or lawful regulations, when it is considered indispensable in order to maintain security and good order

7. Complaints and Independent Inspection:

- i) To delete, in Rule 36, the restriction of prisoners' right to make requests and complaints only during "each working day", as well as the possibility to not promptly deal with, or reply to, requests or complaints which are "evidently frivolous or groundless"
- ii) To add a sub-paragraph to Rule 36 on the need to have in place safeguards that would ensure that avenues are available for prisoners to make requests or complaints in a safe, direct and confidential manner, and without any risk of retaliation or other negative consequences
- iii) To add a sub-paragraph to Rule 36 that would address the entitlement of prisoners to bring their requests or complaints before a judicial or other (independent and impartial) authority in case the initial request or complaint is rejected, or in case of undue delay
- iv) To replace, in Rule 36(2), the current text related to conversations between prisoners and an inspector or any other inspecting officer, i.e. "without the director or other members of staff being present" with "freely and in full confidentiality"
- v) To extent, in Rule 36(3), the right to make complaints to the prisoner's legal counsel and, in case neither the prisoner nor his / her legal counsel are able to exercise this right, to a member of the prisoner's family or any other persons who have knowledge of the case in equal conditions before the law
- vi) To make explicit reference, in Rule 36, to allegations of torture and other cruel, inhuman or degrading treatment or punishment, which should be

dealt with immediately and result in a prompt and impartial investigation conducted by an independent national authority as per Rule 54 bis

- vii) To refer in Rule 55 to the desirability of an inspection system comprising both governmental agencies (internal) and external inspection bodies in a complementary way, whereby external inspection bodies should be independent from the authority in charge of the administration of places of detention or imprisonment
- viii) To add a new paragraph to Rule 55 addressing:
 - The powers of independent inspection mechanisms including, but not limited to, access to all information on:
 - The numbers of persons deprived of their liberty
 - Places of detention, including locations
 - Information relevant to the treatment of persons deprived of their liberty, including conditions of detention
 - The power to freely choose which places of detention to visit, including unannounced visits at their own initiative
 - The power to freely choose which persons deprived of liberty to interview
 - The authority to conduct private and fully confidential interviews with persons deprived of their liberty in the course of visits
- ix) To add text to Rule 55 to the effect of including, as much as possible, female and health-care specialists into the “qualified and experienced inspectors appointed by a competent authority”
- x) To require a new sub-paragraph of Rule 55 stating that any inspection should be followed by a written report to be submitted to the competent authority, which would include an assessment of compliance of penal institutions and services with national law and relevant international standards, as well as recommended reform steps to improve compliance; and the findings of which should be made public, excluding any personal data of a prisoner without his / her express consent

8 The Replacement of Outdated Terminology:

- i) To pursue the replacement of outdated terminology with a view to eliminate discriminatory practice, to clarify and / or define unclear terminology, and to bring the language of the SMRs in line with

contemporary international standards; some delegations also expressed the wish to revisit the term “prisoner”

- ii) To replace in preliminary observation 5(1) reference to “Borstal institutions” with “juvenile detention centres”
- iii) To replace the chapeau of Rule 7 from “Register” to “Recordkeeping” and / or “Prisoner file management system” and to reflect technological advancement in information management systems
- iv) To replace in Rule 82 and 83 the chapeau of “Insane and mentally abnormal prisoners”
- v) To replace in Rule 82(1) the terms “insane”
- vi) To replace in Rule 82(2) the text “prisoners who suffer from other mental diseases or abnormalities”
- vii) To replace in Rule 22(1) the text “treatment of states of mental abnormality”
- viii) To replace in Rule 22 to 26, and 62, the chapeau from “Medical services” with “to replace, in Rule 22(1), 25(2) and 26(2), ‘medical officer’”
- ix) To replace in Rule 22(1), 25(2) and 26(2) the term “medical officer”
- x) To replace in Rule 22(3) the term “qualified dental officer”
- xi) To replace in Rule 24 the term “The medical officer”
- xii) To replace in Rule 25(1) the term “medical officer”
- xiii) To replace in Rule 26(1) the term “The medical officer”
- xiv) Where the term “he” appears in any of the Rules, it should be replaced with “he / she”, and where the term “his” appears it should be replaced with “his / her”

9. Training of Relevant Staff to Implement the Standard Minimum Rules:

- i) To acknowledge, in Rule 47, the positive impact of staff training on professionalism and sound prison management
- ii) To add a new paragraph to Rule 47 clarifying that the training referred to in paragraphs 1 and 2 include, at a minimum:

- Instructions in international and regional human rights instruments
 - UN standards and norms relevant to the treatment of prisoners
 - Relevant regional and national legislation and codes of conduct as applicable
 - The rights, duties and prohibitions of prison staff in the exercise of their functions, including respect for the human dignity of all prisoners and a prohibition of torture and other cruel, inhuman or degrading treatment or punishment
 - Security matters, including the use of force and the management of violent offenders, with a focus on preventive and defusing techniques
 - Training oriented towards care and social inclusion
- iii) To include in Rule 47 reference to the need for training to be based on research results and be reflective of contemporary best practice in penal sciences
- iv) To add a new paragraph to Rule 47 requesting that prison staff, including those who are assigned specialized functions, should receive specialized training, taking into account, inter alia, the special needs of prisoners in situations of vulnerability, non-discrimination and social inclusion.

Annexure B

Specific proposals are outlined below. In general there seems to be consensus that the Rules must be revised in as far as terminology is concerned to make it applicable to women as well as men and to delete certain outdated terminology.

RULE	PROPOSAL
<p>6(1): Prohibition of discrimination (Respect for prisoners' inherent dignity and value as human being) 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 or other status.</p>	<p>The grounds on which discrimination is prohibited in this rule is outdated and does not provide protection to some of the most vulnerable groups within prisons such as gays or lesbians who need protection against discrimination on the grounds of sexual orientation.</p> <p>Consider including the following grounds: Gender, pregnancy, sexual orientation, age, disability, conscience, belief and culture. (Reference: Section 9(3) of Constitution; UN Conventions on rights of persons with disabilities and on the elimination of racial discrimination.)</p>
<p><u>Medical Services</u> 22 to 26: 22. (1) At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. 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 abnormality. (2) 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</p>	<ul style="list-style-type: none"> • The heading "medical services" to be changed to "Health Care Services" which is broader and all-encompassing of prisoners' needs. Amend the rule to refer to "health care services" and "health care professionals" instead of "medical services" and "medical practitioner".

RULE	PROPOSAL
<p>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.</p> <p>(3) The services of a qualified dental officer shall be available to every prisoner.</p> <p>23. (1) In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.</p> <p>(2) Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.</p> <p>24. The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical</p>	

RULE	PROPOSAL
<p>capacity of every prisoner for work.</p> <p>25. (1) The medical officer 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.</p> <p>(2) The medical officer 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.</p>	
<p>Medical officer to inspect and advise regarding nutrition, hygiene, sanitation.</p> <p>26. (1) The medical officer shall regularly inspect and advise the director upon:</p> <ul style="list-style-type: none"> (a) The quantity, quality, preparation and service of food; (b) The hygiene and cleanliness of the institution and the prisoners; (c) The sanitation, heating, lighting and ventilation of the institution; (d) The suitability and cleanliness of the prisoners' clothing and bedding; (e) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities. <p>(2) The director shall take into</p>	<p>What is the position in other countries is this role fulfilled exclusively by medical officers?</p> <p>In South Africa inspections regarding environmental health conditions and health related issues must be performed by medical officers, environmental health officers or registered nurses at least once a month. They must report problems in this regard to the Commissioner.</p> <p>Inspections regarding the other issues referred to in this Rule form part of the mandate of the Independent Inspecting Judge of Prisons. In addition, correctional officials are bound by the provisions of the Occupational Health and Safety Act, 85 of 1993.</p> <p>If there is consensus that internationally this role is not fulfilled exclusively by medical officers then the Rule should be amended accordingly.</p>

RULE	PROPOSAL
<p>consideration the reports and advice that the medical officer submits according to rules 25 (2) and 26 and, in case he concurs with the recommendations made, shall take immediate steps to give effect to those recommendations; if they are not within his competence or if he does not concur with them, he shall immediately submit his own report and the advice of the medical officer to higher authority.</p>	
<p>31- 32 Disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet.</p>	<p>Discipline and order must be maintained with firmness but in no greater measure that is necessary for security purposes and good order in prison and the following requirements should be met:</p> <ul style="list-style-type: none"> • Disciplinary hearing must be fair and may be conducted by the Head of the Prison/ authorized official (informal hearing) or the disciplinary official (formal hearing). • Prisoner to be informed of the allegation against him or her in writing and has the right to prove false the allegation. • The proceedings must be in writing. • Prisoner has the right to be present throughout the hearing. • Prisoner has the right to be heard, to cross examine and call witnesses. • Prisoner has the right to be represented by legal representative of choice at his or her own expense during formal hearing. • Prisoner has the right to be given reasons for the decision. <p>Penalties may only be imposed after the disciplinary process has been concluded. Penalties may not be used</p>

RULE	PROPOSAL
	<p>as a preventative measure, or as a threat of further action.</p> <p>The following penalties may be imposed respectively or in the alternative:</p> <ul style="list-style-type: none"> • A reprimand (warning). • Loss of gratuity for prescribed period. • Restriction of amenities for prescribed period. • Segregation in the cases of serious or repeated infringement with the aim of placing a prisoner on specific programmes to correct his or her behaviour. <p>The health care staff must visit a segregated prisoner on a daily basis and may order the discontinuation of segregation if he or she considers it necessary on grounds of physical or mental health.</p> <p>(Reference: Section 23 to 24 and 30 of the Correctional Services Act No 111 of 1998 as amended)</p>
<p>37 – 39: Contact with the outside world</p> <p>37. Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.</p> <p>38. (1) Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.</p> <p>(2) Prisoners who are nationals of States without diplomatic or</p>	<p>Currently access to legal representatives is only stipulated for untried prisoners (Rule 93). A general rule that entitles any inmate to consult on any legal matter with a legal practitioner of his or her choice at his or her own expense or at the expenses of the state (Legal Aid) should be included.</p>

RULE	PROPOSAL
<p>consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.</p> <p>39. Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the administration.</p>	
<p>44. Investigation of all deaths in custody, as well as any signs or allegations of torture or inhumane or degrading treatment or punishment of prisoners.</p>	<p>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.</p> <p>In the event of a death in custody due unnatural causes, an investigation by an impartial and competent authority shall be conducted and if warranted, the findings turned over to appropriate law enforcement authorities.</p> <p>Investigation should establish whether the death was caused as a result of torture or inhumane or degrading treatment or punishment of prisoners.</p>
<p>In institutions for both men and women, the female part shall be under the authority of women officers.</p>	<p>Due to gender equality this provision is not strictly adhered to in South Africa. Male officials do work within female</p>

RULE	PROPOSAL
<p>In such cases male officers shall be accompanied by women officers.</p> <p>53. (1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.</p> <p>(2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.</p> <p>(3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.</p>	<p>prisons and vice versa. This rule may be outdated.</p> <p>The principle in this rule should be applied in relation to searches, but not as a general prohibition to men working in female prisons.</p>
<p><u>Complaints and Independent Inspections</u></p> <p>55: There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed 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.</p>	<p>The mandate of inspectors should be broadened to focus also on the “treatment of inmates in prisons and the conditions in such prisons”.</p>

RULE	PROPOSAL
<p>There shall be a system for prisoners to make complaints to the Independent Inspectors in a private consultation.</p>	
<p><u>Insane and mentally abnormal prisoners</u></p> <p>82: (1) Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible.</p> <p>(2) Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management.</p> <p>(3) During their stay in a prison, such prisoners shall be placed under the special supervision of a medical officer.</p> <p>(4) The medical or psychiatric service of the penal institutions shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.</p>	<p>Terminology such as “insane” and “mentally abnormal” prisoners is outdated and should be replaced with terminology such as “mentally ill”.</p>
<p><u>Right of access to legal representation</u></p> <p>93: For the purposes of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal adviser with a view to his defence and to prepare and hand to him confidential instructions. For these purposes, he shall if he so desires be supplied with writing material. Interviews between the prisoner and his legal adviser may be within sight but not within the hearing of a police or institution official.</p>	<p>Currently access to legal representatives is only stipulated for untried prisoners (Rule 93).</p> <p>A general rule that entitles any inmate to consult on any legal matter with a legal practitioner of his or her choice at his or her own expense or at the expenses of the state (Legal Aid) should be included.</p>

RULE	PROPOSAL
NEW ADDITIONS TO THE RULES	
<p>Part II: Rules for the protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances.</p>	<p>Provision should be made for additional vulnerable groups, such as Disabled prisoners, Children and Aged prisoners. It should be considered to include cross-references to other UN and Regional rules and Treaties adopted on the treatment of specific groups of prisoners such as women, children and juveniles</p> <p>The treatment of persons in prison should not add to the harm their children experience by the fact of the parent's imprisonment; children should not to be discriminated against because of the actions or alleged actions of a parent.</p> <p>Decisions to allow children to stay with an imprisoned parent in prison shall be based on the best interests of the child, taking into account individual circumstances and shall be reviewed regularly to take account of the changes and developments in the child and other circumstances.</p> <p>The environment provided for such children's upbringing shall resemble as closely as possible that of a child outside prison.</p>
<p>Training of relevant staff to implement Standard Minimum Rules</p>	<p>The Standard Minimum Rules should be incorporated in relevant legislation and operational directives. In turn such legislation and operational directives should be included in the training curriculum pertaining to Correctional Officials.</p>