

# I. Treatment of prisoners

## 1. Standard Minimum Rules for the Treatment of Prisoners\*

### PRELIMINARY OBSERVATIONS

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, to set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions.

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.

3. On the other hand, 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.

4. (1) Part I of the rules covers the general management of institutions, and is applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to “security measures” or corrective measures ordered by the judge.

(2) Part II contains rules applicable only to the special categories dealt with in each section. Nevertheless, the rules under section A, applicable to

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prisoners under sentence, shall be equally applicable to categories of prisoners dealt with in sections B, C and D, provided they do not conflict with the rules governing those categories and are for their benefit.

5. (1) The rules do not seek to regulate the management of institutions set aside for young persons such as Borstal institutions or correctional schools, but in general part I would be equally applicable in such institutions.

(2) The category of young prisoners should include at least all young persons who come within the jurisdiction of juvenile courts. As a rule, such young persons should not be sentenced to imprisonment.

## PART I RULES OF GENERAL APPLICATION

### *Basic principle*

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 or other status.

(2) On the other hand, it is necessary to respect the religious beliefs and moral precepts of the group to which a prisoner belongs.

### *Register*

7. (1) In every place where persons are imprisoned there shall be kept a bound registration book with numbered pages in which shall be entered in respect of each prisoner received:

- (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.

### *Separation of categories*

8. The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention 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.

### *Accommodation*

9. (1) Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

(2) Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the institution.

10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

11. In all places where prisoners are required to live or work,

(a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;

(b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

12. The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

13. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

14. All parts of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

### *Personal hygiene*

15. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

16. In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.

### *Clothing and bedding*

17. (1) Every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating.

(2) All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.

(3) In exceptional circumstances, whenever a prisoner is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other inconspicuous clothing.

18. If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use.

19. Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

### *Food*

20. (1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.

(2) Drinking water shall be available to every prisoner whenever he needs it.

### *Exercise and sport*

21. (1) Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

(2) Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end space, installations and equipment should be provided.

### *Medical services*

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 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.

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

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.

(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.

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 capacity of every prisoner for work.

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.

(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.

26. (1) The medical officer shall regularly inspect and advise the director upon:

- (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.

(2) The director shall take into 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.

### *Discipline and punishment*

27. Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.

28. (1) No prisoner shall be employed, in the service of the institution, in any disciplinary capacity.

(2) This rule shall not, however, impede the proper functioning of systems based on self-government, under which specified social, educational or sports activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purposes of treatment.

29. The following shall always be determined by the law or by the regulation of the competent administrative authority:

- (a) Conduct constituting a disciplinary offence;
- (b) The types and duration of punishment which may be inflicted;
- (c) The authority competent to impose such punishment.

30. (1) No prisoner shall be punished except in accordance with 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. The competent authority shall conduct a thorough examination of the case.

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

31. Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.

32. (1) Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he 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 a prisoner. In no case may such punishment be contrary to or depart from the principle stated in rule 31.

(3) The medical officer 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.

### *Instruments of restraint*

33. Instruments of restraint, such as handcuffs, chains, irons and strait-jackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:

(a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;

(b) On medical grounds by direction of the medical officer;

(c) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.

34. The patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer time than is strictly necessary.

### *Information to and complaints by prisoners*

35. (1) Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution.

(2) If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally.

36. (1) Every prisoner shall have the opportunity each week day 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 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.

(4) Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.

### *Contact with the outside world*

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.

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.

(2) Prisoners who are nationals of States without diplomatic or 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.

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.

### *Books*

40. Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.

### *Religion*

41. (1) If the institution contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.

(2) A qualified representative appointed or approved under paragraph (1) shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his religion at proper times.

(3) Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his attitude shall be fully respected.

42. So far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination.

#### *Retention of prisoners' property*

43. (1) All money, valuables, clothing and other effects belonging to a prisoner which under the regulations of the institution he is not allowed to retain shall on his admission to the institution be placed in safe custody. An inventory thereof shall be signed by the prisoner. Steps shall be taken to keep them in good condition.

(2) On the release of the prisoner all such articles and money shall be returned to him except insofar as he has been authorized to spend money or send any such property out of the institution, or it has been found necessary on hygienic grounds to destroy any article of clothing. The prisoner shall sign a receipt for the articles and money returned to him.

(3) Any money or effects received for a prisoner from outside shall be treated in the same way.

(4) If a prisoner brings in any drugs or medicine, the medical officer shall decide what use shall be made of them.

#### *Notification of death, illness, transfer, etc.*

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 affections, 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.

(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.

### *Removal of prisoners*

45. (1) When the prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.

(2) The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited.

(3) The transport of prisoners shall be carried out at the expense of the administration and equal conditions shall obtain for all of them.

### *Institutional personnel*

46. (1) The prison administration, shall provide for the careful selection of every grade of the personnel, since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of the institutions depends.

(2) The prison administration shall constantly seek to awaken and maintain in the minds both of the personnel and of the public the conviction that this work is a social service of great importance, and to this end all appropriate means of informing the public should be used.

(3) To secure the foregoing ends, personnel shall be appointed on a full-time basis as professional prison officers and have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness. Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of the work.

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.

48. All members of the personnel shall at all times so conduct themselves and perform their duties as to influence the prisoners for good by their examples and to command their respect.

49. (1) So far as possible, the personnel shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers and trade instructors.

(2) The services of social workers, teachers and trade instructors shall be secured on a permanent basis, without thereby excluding part-time or voluntary workers.

50. (1) The director of an institution should be adequately qualified for his task by character, administrative ability, suitable training and experience.

(2) He shall devote his entire time to his official duties and shall not be appointed on a part-time basis.

(3) He shall reside on the premises of the institution or in its immediate vicinity.

(4) When two or more institutions are under the authority of one director, he shall visit each of them at frequent intervals. A responsible resident official shall be in charge of each of these institutions.

51. (1) The director, his deputy, and the majority of the other personnel of the institution shall be able to speak the language of the greatest number of prisoners, or a language understood by the greatest number of them.

(2) Whenever necessary, the services of an interpreter shall be used.

52. (1) In institutions which are large enough to require the services of one or more full-time medical officers, at least one of them shall reside on the premises of the institution or in its immediate vicinity.

(2) In other institutions the medical officer shall visit daily and shall reside near enough to be able to attend without delay in cases of urgency.

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.

(2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.

(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.

54. (1) Officers of the institutions shall not, in their relations with the prisoners, use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Officers who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the director of the institution.

(2) Prison officers shall be given special physical training to enable them to restrain aggressive prisoners.

(3) Except in special circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should in no circumstances be provided with arms unless they have been trained in their use.

### *Inspection*

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.

## PART II RULES APPLICABLE TO SPECIAL CATEGORIES

### *A. Prisoners under sentence*

#### *Guiding principles*

56. The guiding principles hereafter are intended to show the spirit in which penal institutions should be administered and the purposes at which they should

aim, in accordance with the declaration made under Preliminary Observation I of the present text.

57. Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation.

58. The purpose and justification of a sentence of imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life.

59. To this end, the institution should utilize all the remedial, educational, moral, spiritual and other forces and forms of assistance which are appropriate and available, and should seek to apply them according to the individual treatment needs of the prisoners.

60. (1) The regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.

(2) Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release regime organized in the same institution or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.

61. The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it. Community agencies should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners. There should be in connection with every institution social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his family and with valuable social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.

62. The medical services of the institution shall seek to detect and shall treat any physical or mental illnesses or defects which may hamper a prisoner's

rehabilitation. All necessary medical, surgical and psychiatric services shall be provided to that end.

63. (1) The fulfilment of these principles requires individualization of treatment and for this purpose a flexible system of classifying prisoners in groups; it is therefore desirable that such groups should be distributed in separate institutions suitable for the treatment of each group.

(2) These institutions need not provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different groups. Open institutions, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to rehabilitation for carefully selected prisoners.

(3) It is desirable that the number of prisoners in closed institutions should not be so large that the individualization of treatment is hindered. In some countries it is considered that the population of such institutions should not exceed five hundred. In open institutions the population should be as small as possible.

(4) On the other hand, it is undesirable to maintain prisons which are so small that proper facilities cannot be provided.

64. The duty of society does not end with a prisoner's release. There should, therefore, be governmental or private agencies capable of lending the released prisoner efficient after-care directed towards the lessening of prejudice against him and towards his social rehabilitation.

### *Treatment*

65. The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility.

66. (1) To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his social and criminal history, his physical

and mental capacities and aptitudes, his personal temperament, the length of his sentence and his prospects after release.

(2) For every prisoner with a sentence of suitable length, the director shall receive, as soon as possible after his admission, full reports on all the matters referred to in the foregoing paragraph. Such reports shall always include a report by a medical officer, wherever possible qualified in psychiatry, on the physical and mental condition of the prisoner.

(3) The reports and other relevant documents shall be placed in an individual file. This file shall be kept up to date and classified in such a way that it can be consulted by the responsible personnel whenever the need arises.

### *Classification and individualization*

67. The purposes of classification shall be:

(a) To separate from others those prisoners who, by reason of their criminal records or bad characters, are likely to exercise a bad influence;

(b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.

68. So far as possible separate institutions or separate sections of an institution shall be used for the treatment of the different classes of prisoners.

69. As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him in the light of the knowledge obtained about his individual needs, his capacities and dispositions.

### *Privileges*

70. Systems of privileges appropriate for the different classes of prisoners and the different methods of treatment shall be established at every institution, in order to encourage good conduct, develop a sense of responsibility and secure the interest and cooperation of the prisoners in their treatment.

### *Work*

71. (1) Prison labour must not be of an afflictive nature.



(2) All prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer.

(3) Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.

(4) So far as possible the work provided shall be such as will maintain or increase the prisoners' ability to earn an honest living after release.

(5) Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.

(6) Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, the prisoners shall be able to choose the type of work they wish to perform.

72. (1) The organization and methods of work in the institutions shall resemble as closely as possible those of similar work outside institutions, so as to prepare prisoners for the conditions of normal occupational life.

(2) The interests of the prisoners and of their vocational training, however, must not be subordinated to the purpose of making a financial profit from an industry in the institution.

73. (1) Preferably institutional industries and farms should be operated directly by the administration and not by private contractors.

(2) Where prisoners are employed in work not controlled by the administration, they shall always be under the supervision of the institution's personnel. Unless the work is for other departments of the government the full normal wages for such work shall be paid to the administration by the persons to whom the labour is supplied, account being taken of the output of the prisoners.

74. (1) The precautions laid down to protect the safety and health of free workmen shall be equally observed in institutions.

(2) Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workmen.

75. (1) The maximum daily and weekly working hours of the prisoners shall be fixed by law or by administrative regulation, taking into account local rules or custom in regard to the employment of free workmen.

(2) The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of the prisoners.

76. (1) There shall be a system of equitable remuneration of the work of prisoners.

(2) Under the system prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.

(3) The system should also provide that a part of the earnings should be set aside by the administration so as to constitute a savings fund to be handed over to the prisoner on his release.

#### *Education and recreation*

77. (1) Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.

(2) So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

78. Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners.

#### *Social relations and after-care*

79. Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both.

80. From the beginning of a prisoner's sentence consideration shall be given to his future after release and he shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interests of his family and his own social rehabilitation.

81. (1) Services and agencies, governmental or otherwise, which assist released prisoners to re-establish themselves in society shall ensure, so far as

is possible and necessary, that released prisoners be provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.

(2) The approved representatives of such agencies shall have all necessary access to the institution and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his sentence.

(3) It is desirable that the activities of such agencies shall be centralized or coordinated as far as possible in order to secure the best use of their efforts.

### ***B. Insane and mentally abnormal prisoners***

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.

(2) Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management.

(3) During their stay in a prison, such prisoners shall be placed under the special supervision of a medical officer.

(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.

83. It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric after-care.

### ***C. Prisoners under arrest or awaiting trial***

84. (1) Persons arrested or imprisoned by reason of a criminal charge against them, who are detained either in police custody or in prison custody (jail) but have not yet been tried and sentenced, will be referred to as “untried prisoners” hereinafter in these rules.

(2) Unconvicted prisoners are presumed to be innocent and shall be treated as such.

(3) Without prejudice to legal rules for the protection of individual liberty or prescribing the procedure to be observed in respect of untried prisoners, these prisoners shall benefit by a special regime which is described in the following rules in its essential requirements only.

85. (1) Untried prisoners shall be kept separate from convicted prisoners.

(2) Young untried prisoners shall be kept separate from adults and shall in principle be detained in separate institutions.

86. Untried prisoners shall sleep singly in separate rooms, with the reservation of different local custom in respect of the climate.

87. Within the limits compatible with the good order of the institution, untried prisoners may, if they so desire, have their food procured at their own expense from the outside, either through the administration or through their family or friends. Otherwise, the administration shall provide their food.

88. (1) An untried prisoner shall be allowed to wear his own clothing if it is clean and suitable.

(2) If he wears prison dress, it shall be different from that supplied to convicted prisoners.

89. An untried prisoner shall always be offered opportunity to work, but shall not be required to work. If he chooses to work, he shall be paid for it.

90. An untried prisoner shall be allowed to procure at his own expense or at the expense of a third party such books, newspapers, writing materials and other means of occupation as are compatible with the interests of the administration of justice and the security and good order of the institution.

91. An untried prisoner shall be allowed to be visited and treated by his own doctor or dentist if there is reasonable ground for his application and he is able to pay any expenses incurred.

92. An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.

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.

#### *D. Civil prisoners*

94. In countries where the law permits imprisonment for debt or by order of a court under any other non-criminal process, persons so imprisoned shall not be subjected to any greater restriction or severity than is necessary to ensure safe custody and good order. Their treatment shall be not less favourable than that of untried prisoners, with the reservation, however, that they may possibly be required to work.

#### *E. Persons arrested or imprisoned without charge*

95. Without prejudice to the provisions of article 9 of the International Covenant on Civil and Political Rights, persons arrested or imprisoned without charge shall be accorded the same protection as that accorded under part I and part II, section C. Relevant provisions of part II, section A, shall likewise be applicable where their application may be conducive to the benefit of this special group of persons in custody, provided that no measures shall be taken implying that re-education or rehabilitation is in any way appropriate to persons not convicted of any criminal offence.

## **2. Procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners\***

### *Procedure 1*

All States whose standards for the protection of all persons subjected to any form of detention or imprisonment fall short of the Standard Minimum Rules for the Treatment of Prisoners shall adopt the Rules.

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\*Economic and Social Council resolution 1984/47, annex.

*Commentary*

The General Assembly, in its resolution 2858 (XXVI) of 20 December 1971, invited the attention of Member States to the Standard Minimum Rules and recommended that they should be effectively implemented in the administration of penal and correctional institutions and that favourable consideration should be given to their incorporation in national legislation. Some States may have standards that are more advanced than the Rules, and the adoption of the Rules is therefore not requested on the part of such States. Where States feel that the Rules need to be harmonized with their legal system and adapted to their culture, the emphasis is placed on the substance rather than the letter of the Rules.

*Procedure 2*

Subject, as necessary, to their adaptation to the existing laws and culture but without deviation from the spirit and purpose of the Rules, the Standard Minimum Rules shall be embodied in national legislation and other regulations.

*Commentary*

This procedure emphasizes that it is necessary to embody the Rules within national legislation and regulations, thus covering also some aspects of procedure 1.

*Procedure 3*

The Standard Minimum Rules shall be made available to all persons concerned, particularly to law enforcement officials and correctional personnel, for purposes of enabling their application and execution in the criminal justice system.

*Commentary*

This procedure stresses that the Rules, as well as national statutes and regulations implementing the Rules, should be made available to all persons concerned with their implementation, in particular law enforcement officials and correctional personnel. The effective implementation of the Rules might also involve the organization of training courses by the central administration in charge of correctional matters. The dissemination of procedures is discussed in procedures 7 to 9.

### *Procedure 4*

The Standard Minimum Rules, as embodied in national legislation and other regulations, shall also be made available and understandable to all prisoners and all persons under detention, on their admission and during their confinement.

#### *Commentary*

To achieve the goal of the Standard Minimum Rules, it is necessary to make the Rules, as well as the implementing national statutes and regulations, available to prisoners and all persons under detention (rule 95), in order to further the awareness that the Rules represent the minimum conditions that are accepted as suitable by the United Nations. Thus, this procedure supplements the provisions contained in procedure 3.

A similar requirement, that the Rules be made available to the persons for whose protection they have been elaborated, has been already established in the four Geneva Conventions of 12 August 1949,<sup>1</sup> of which articles 47 of the first Convention, 48 of the second, 127 of the third and 144 of the fourth state in common:

“The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population, in particular to the armed fighting forces, the medical personnel and the chaplains.”

### *Procedure 5*

States shall inform the Secretary-General of the United Nations every five years of the extent of the implementation and the progress made with regard to the application of the Standard Minimum Rules, and of the factors and difficulties, if any, affecting their implementation, by responding to the Secretary-General's questionnaire. This questionnaire should, following a specified schedule, be selective and limited so specific questions in order to secure an in-depth review and study of the problems selected. Taking into account the reports of Governments as well as other relevant information available within

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<sup>1</sup>United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

the United Nations system, the Secretary-General shall prepare independent periodic reports on progress made with respect to the implementation of the Standard Minimum Rules. In the preparation of those reports the Secretary-General may also enlist the cooperation of specialized agencies and of the relevant intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council. The Secretary-General shall submit the above-mentioned reports to the Committee on Crime Prevention and Control for consideration and further action, as appropriate.

### *Commentary*

It will be recalled that the Economic and Social Council, in its resolution 663 C (XXIV) of 31 July 1957, recommended that the Secretary-General be informed every five years of the progress made with regard to the application of the Standard Minimum Rules and authorized the Secretary-General to make arrangements for the publication, as appropriate, of such information and to ask for supplementary information if necessary. Seeking the cooperation of specialized agencies and relevant intergovernmental and non-governmental organizations is a well-established United Nations practice. In the preparation of his independent reports on progress made with respect to the implementation of the Standard Minimum Rules, the Secretary-General will take into account, inter alia, information available in the human rights organs of the United Nations, including the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Human Rights Committee functioning under the International Covenant on Civil and Political Rights, and the Committee on the Elimination of Racial Discrimination. The implementation work under the future convention against torture could also be taken into account, as well as any information which might be gathered under the body of principles for the protection of prisoners and detainees currently under preparation in the General Assembly.

### *Procedure 6*

As part of the information mentioned in procedure 5 above, States should provide the Secretary-General with:

(a) Copies or abstracts of all laws, regulations and administrative measures concerning the application of the Standard Minimum Rules to persons under detention and to places and programmes of detention;

(b) Any data and descriptive material on treatment programmes, personnel and the number of persons under any form of detention, and statistics, if available;



(c) Any other relevant information on the implementation of the Rules, as well as information on the possible difficulties in their application.

*Commentary*

This requirement derives from both resolution 663 C (XXIV) of the Economic and Social Council and the recommendations of the United Nations congresses on the prevention of crime and the treatment of offenders. Although the items of information suggested here are not specifically provided for, it seems feasible to collect such information in order to assist Member States in overcoming difficulties through an exchange of experience. Furthermore, the request for such information is analogous to the existing periodic reporting system on human rights originally established by the Economic and Social Council in its resolution 624 B (XXII) of 1 August 1956.

*Procedure 7*

The Secretary-General shall disseminate the Standard Minimum Rules and the present implementing procedures, in as many languages as possible, and make them available to all States and intergovernmental and non-governmental organizations concerned, in order to ensure the widest circulation of the Rules and the present implementing procedures.

*Commentary*

The need for the widest possible dissemination of the Standard Minimum Rules is self-evident. Close cooperation with all appropriate intergovernmental and non-governmental organizations is important to secure more effective dissemination and implementation of the Rules. Therefore, the Secretariat should maintain close contacts with such organizations and should make relevant information and data available to them. It should also encourage those organizations to disseminate information about the Standard Minimum Rules and the implementing procedures.

*Procedure 8*

The Secretary-General shall disseminate his reports on the implementation of the Rules, including analytical summaries of the periodic surveys, reports of the Committee on Crime Prevention and Control, reports prepared for the United Nations congresses on the prevention of crime and the treatment of offenders as well as the reports of the congresses, scientific publications and other rele-

vant documentation as from time to time may be deemed necessary to further the implementation of the Standard Minimum Rules.

*Commentary*

This procedure reflects the present practice of disseminating such reports as part of the documentation for the United Nations bodies concerned, as United Nations publications or as articles in the *Yearbook on Human Rights* and the *International Review of Criminal Policy*, the *Crime Prevention and Criminal Justice Newsletter* and any other relevant publications.

*Procedure 9*

The Secretary-General shall ensure the widest possible reference to and use of the text of the Standard Minimum Rules by the United Nations in all its relevant programmes, including technical cooperation activities.

*Commentary*

It should be ensured that all relevant United Nations bodies include or make reference to the Rules and the implementing procedures, thus contributing to wider dissemination and increasing the awareness of specialized agencies, governmental, intergovernmental and non-governmental bodies and the general public of the Rules and of the commitment of the Economic and Social Council and the General Assembly to their implementation.

The extent to which the Rules have any practical effect on correctional administrations depends to a great extent on the measures through which they permeate local legislative and administrative practices. They should be known and understood by a wide range of professionals and non-professionals throughout the world. Therefore there is a great need for more publicity in any form, which could also be attained by frequent references to the Rules, accompanied by public information campaigns.

*Procedure 10*

As part of its technical cooperation and development programmes the United Nations shall:

(a) Aid Governments, at their request, in setting up and strengthening comprehensive and humane correctional systems;

(b) Make available to Governments requesting them the services of experts and regional and interregional advisers on crime prevention and criminal justice;

(c) Promote national and regional seminars and other meetings at the professional and non-professional levels to further the dissemination of the Standard Minimum Rules and the present implementing procedures;

(d) Strengthen substantive support to regional research and training institutes in crime prevention and criminal justice that are associated with the United Nations.

The United Nations regional research and training institutes in crime prevention and criminal justice, in cooperation with national institutions, shall develop curricula and training materials, based on the Standard Minimum Rules and the present implementing procedures, suitable for use in criminal justice educational programmes at all levels, as well as in specialized courses on human rights and other related subjects.

### *Commentary*

The purpose of this procedure is to ensure that the United Nations technical assistance programmes and the training activities of the United Nations regional institutes are used as indirect instruments for the application of the Standard Minimum Rules and the present implementing procedures. Apart from regular training courses for correctional personnel, training manuals and the like, particularly at the policy and decision-making level, provision should be made for expert advice on the questions submitted by Member States, including an expert referral system to interested States. This expert referral system seems particularly necessary in order to implement the Rules according to their spirit and with a view to the socio-economic structure of the countries requesting such assistance.

### *Procedure 11*

The United Nations Committee on Crime Prevention and Control shall:

(a) Keep under review, from time to time, the Standard Minimum Rules, with a view to the elaboration of new rules, standards and procedures applicable to the treatment of persons deprived of liberty;

(b) Follow up the present implementing procedures, including periodic reporting under procedure 5 above.

*Commentary*

As most of the information collected in the course of periodic inquiries as well as during technical assistance missions would be brought to the attention of the Committee on Crime Prevention and Control, ensuring the effectiveness of the Rules in improving correctional practices rests with the Committee, whose recommendations would determine the future course in the application of the Rules, together with the implementing procedures. The Committee should therefore clearly define existing shortcomings in or the reasons for the lack of implementation of the Rules, *inter alia*, through contacts with the judiciary and ministries of justice of the countries concerned, with the view to suggesting appropriate remedies.

*Procedure 12*

The Committee on Crime Prevention and Control shall assist the General Assembly, the Economic and Social Council and any other United Nations human rights bodies, as appropriate, with recommendations relating to reports of ad hoc inquiry commissions, with respect to matters pertaining to the application and implementation of the Standard Minimum Rules.

*Commentary*

As the Committee on Crime Prevention and Control is the relevant body to review the implementation of the Standard Minimum Rules, it should also assist the above-mentioned bodies.

*Procedure 13*

Nothing in the present implementing procedures should be construed as precluding resort to any other means or remedies available under international law or set forth by other United Nations bodies and agencies for the redress of violations of human rights, including the procedure on consistent patterns of gross violations of human rights under Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970, the communication procedure under the Optional Protocol to the International Covenant on Civil and Political Rights<sup>2</sup> and the communication procedure under the International Convention on the Elimination of All Forms of Racial Discrimination.<sup>3</sup>

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<sup>2</sup>General Assembly resolution 2200 A (XXI), annex.

<sup>3</sup>General Assembly resolution 2106 A (XX), annex.

### *Commentary*

Since the Standard Minimum Rules are only partly concerned with specific human rights issues, the present procedures should not exclude any avenue for redress of any violation of such rights, in accordance with existing international or regional standards and norms.

## **3. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment\***

### *Scope of the Body of Principles*

These principles apply for the protection of all persons under any form of detention or imprisonment.

### *Use of terms*

For the purposes of the Body of Principles:

(a) “Arrest” means the act of apprehending a person for the alleged commission of an offence or by the action of an authority;

(b) “Detained person” means any person deprived of personal liberty except as a result of conviction for an offence;

(c) “Imprisoned person” means any person deprived of personal liberty as a result of conviction for an offence;

(d) “Detention” means the condition of detained persons as defined above;

(e) “Imprisonment” means the condition of imprisoned persons as defined above;

(f) The words “a judicial or other authority” mean a judicial or other authority under the law whose status and tenure should afford the strongest possible guarantees of competence, impartiality and independence.

### *Principle 1*

All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.

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\*General Assembly resolution 43/173, annex.

### *Principle 2*

Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose.

### *Principle 3*

There shall be no restriction upon or derogation from any of the human rights of persons under any form of detention or imprisonment recognized or existing in any State pursuant to law, conventions, regulations or custom on the pretext that this Body of Principles does not recognize such rights or that it recognizes them to a lesser extent.

### *Principle 4*

Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority.

### *Principle 5*

1. These principles shall be applied to all persons within the territory of any given State, without distinction of any kind, such as race, colour, sex, language, religion or religious belief, political or other opinion, national, ethnic or social origin, property, birth or other status.
2. Measures applied under the law and designed solely to protect the rights and special status of women, especially pregnant women and nursing mothers, children and juveniles, aged, sick or handicapped persons shall not be deemed to be discriminatory. The need for, and the application of, such measures shall always be subject to review by a judicial or other authority.

### *Principle 6*

No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.\* No

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\*The term "cruel, inhuman or degrading treatment or punishment" should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently, of the use of any of his natural senses, such as sight or hearing, or of his awareness of place and the passing of time.

circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

### *Principle 7*

1. States should prohibit by law any act contrary to the rights and duties contained in these principles, make any such act subject to appropriate sanctions and conduct impartial investigations upon complaints.

2. Officials who have reason to believe that a violation of this Body of Principles has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial powers.

3. Any other person who has ground to believe that a violation of this Body of Principles has occurred or is about to occur shall have the right to report the matter to the superiors of the officials involved as well as to other appropriate authorities or organs vested with reviewing or remedial powers.

### *Principle 8*

Persons in detention shall be subject to treatment appropriate to their unconvicted status. Accordingly, they shall, whenever possible, be kept separate from imprisoned persons.

### *Principle 9*

The authorities which arrest a person, keep him under detention or investigate the case shall exercise only the powers granted to them under the law and the exercise of these powers shall be subject to recourse to a judicial or other authority.

### *Principle 10*

Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.

*Principle 11*

1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.
2. A detained person and his counsel, if any, shall receive prompt and full communication of any order of detention, together with the reasons therefor.
3. A judicial or other authority shall be empowered to review as appropriate the continuance of detention.

*Principle 12*

1. There shall be duly recorded:
  - (a) The reasons for the arrest;
  - (b) The time of the arrest and the taking of the arrested person to a place of custody as well as that of his first appearance before a judicial or other authority;
  - (c) The identity of the law enforcement officials concerned;
  - (d) Precise information concerning the place of custody.
2. Such records shall be communicated to the detained person, or his counsel, if any, in the form prescribed by law.

*Principle 13*

Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively, with information on and an explanation of his rights and how to avail himself of such rights.

*Principle 14*

A person who does not adequately understand or speak the language used by the authorities responsible for his arrest, detention or imprisonment is entitled to receive promptly in a language which he understands the information referred



to in principle 10, principle 11, paragraph 2, principle 12, paragraph 1, and principle 13 and to have the assistance, free of charge, if necessary, of an interpreter in connection with legal proceedings subsequent to his arrest.

### *Principle 15*

Notwithstanding the exceptions contained in principle 16, paragraph 4, and principle 18, paragraph 3, communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.

### *Principle 16*

1. Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody.

2. If a detained or imprisoned person is a foreigner, he shall also be promptly informed of his right to communicate by appropriate means with a consular post or the diplomatic mission of the State of which he is a national or which is otherwise entitled to receive such communication in accordance with international law or with the representative of the competent international organization, if he is a refugee or is otherwise under the protection of an intergovernmental organization.

3. If a detained or imprisoned person is a juvenile or is incapable of understanding his entitlement, the competent authority shall on its own initiative undertake the notification referred to in the present principle. Special attention shall be given to notifying parents or guardians.

4. Any notification referred to in the present principle shall be made or permitted to be made without delay. The competent authority may however delay a notification for a reasonable period where exceptional needs of investigation so require.

### *Principle 17*

1. A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.

2. If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.

### *Principle 18*

1. A detained or imprisoned person shall be entitled to communicate and consult with his legal counsel.

2. A detained or imprisoned person shall be allowed adequate time and facilities for consultation with his legal counsel.

3. The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order.

4. Interviews between a detained or imprisoned person and his legal counsel may be within sight, but not within the hearing, of a law enforcement official.

5. Communications between a detained or imprisoned person and his legal counsel mentioned in the present principle shall be inadmissible as evidence against the detained or imprisoned person unless they are connected with a continuing or contemplated crime.

### *Principle 19*

A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.

### *Principle 20*

If a detained or imprisoned person so requests, he shall if possible be kept in a place of detention or imprisonment reasonably near his usual place of residence.

*Principle 21*

1. It shall be prohibited to take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess, to incriminate himself otherwise or to testify against any other person.
2. No detained person while being interrogated shall be subject to violence, threats or methods of interrogation which impair his capacity of decision or his judgement.

*Principle 22*

No detained or imprisoned person shall, even with his consent, be subjected to any medical or scientific experimentation which may be detrimental to his health.

*Principle 23*

1. The duration of any interrogation of a detained or imprisoned person and of the intervals between interrogations as well as the identity of the officials who conducted the interrogations and other persons present shall be recorded and certified in such form as may be prescribed by law.
2. A detained or imprisoned person, or his counsel when provided by law, shall have access to the information described in paragraph 1 of the present principle.

*Principle 24*

A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge.

*Principle 25*

A detained or imprisoned person or his counsel shall, subject only to reasonable conditions to ensure security and good order in the place of detention or imprisonment, have the right to request or petition a judicial or other authority for a second medical examination or opinion.

*Principle 26*

The fact that a detained or imprisoned person underwent a medical examination, the name of the physician and the results of such an examination shall be duly recorded. Access to such records shall be ensured. Modalities therefore shall be in accordance with relevant rules of domestic law.

*Principle 27*

Non-compliance with these principles in obtaining evidence shall be taken into account in determining the admissibility of such evidence against a detained or imprisoned person.

*Principle 28*

A detained or imprisoned person shall have the right to obtain within the limits of available resources, if from public sources, reasonable quantities of educational, cultural and informational material, subject to reasonable conditions to ensure security and good order in the place of detention or imprisonment.

*Principle 29*

1. In order to supervise the strict observance of relevant laws and regulations, places of detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment.
2. A detained or imprisoned person shall have the right to communicate freely and in full confidentiality with the persons who visit the places of detention or imprisonment in accordance with paragraph 1 of the present principle, subject to reasonable conditions to ensure security and good order in such places.

*Principle 30*

1. The types of conduct of the detained or imprisoned person that constitute disciplinary offences during detention or imprisonment, the description and duration of disciplinary punishment that may be inflicted and the authorities competent to impose such punishment shall be specified by law or lawful regulations and duly published.

2. A detained or imprisoned person shall have the right to be heard before disciplinary action is taken. He shall have the right to bring such action to higher authorities for review.

*Principle 31*

The appropriate authorities shall endeavour to ensure, according to domestic law, assistance when needed to dependent and, in particular, minor members of the families of detained or imprisoned persons and shall devote a particular measure of care to the appropriate custody of children left without supervision.

*Principle 32*

1. A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful.

2. The proceedings referred to in paragraph 1 of the present principle shall be simple and expeditious and at no cost for detained persons without adequate means. The detaining authority shall produce without unreasonable delay the detained person before the reviewing authority.

*Principle 33*

1. A detained or imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.

2. In those cases where neither the detained or imprisoned person nor his counsel has the possibility to exercise his rights under paragraph 1 of the present principle, a member of the family of the detained or imprisoned person or any other person who has knowledge of the case may exercise such rights.

3. Confidentiality concerning the request or complaint shall be maintained if so requested by the complainant.

4. Every request or complaint shall be promptly dealt with and replied to without undue delay. If the request or complaint is rejected or, in case of inordinate delay, the complainant shall be entitled to bring it before a judicial or other authority. Neither the detained or imprisoned person nor any complainant under paragraph 1 of the present principle shall suffer prejudice for making a request or complaint.

#### *Principle 34*

Whenever the death or disappearance of a detained or imprisoned person occurs during his detention or imprisonment, an inquiry into the cause of death or disappearance shall be held by a judicial or other authority, either on its own motion or at the instance of a member of the family of such a person or any person who has knowledge of the case. When circumstances so warrant, such an inquiry shall be held on the same procedural basis whenever the death or disappearance occurs shortly after the termination of the detention or imprisonment. The findings of such inquiry or a report thereon shall be made available upon request, unless doing so would jeopardize an ongoing criminal investigation.

#### *Principle 35*

1. Damage incurred because of acts or omissions by a public official contrary to the rights contained in these principles shall be compensated according to the applicable rules or liability provided by domestic law.
2. Information required to be recorded under these principles shall be available in accordance with procedures provided by domestic law for use in claiming compensation under the present principle.

#### *Principle 36*

1. A detained person suspected of or charged with a criminal offence shall be presumed innocent and shall be treated as such until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. The arrest or detention of such a person pending investigation and trial shall be carried out only for the purposes of the administration of justice on grounds

and under conditions and procedures specified by law. The imposition of restrictions upon such a person which are not strictly required for the purpose of the detention or to prevent hindrance to the process of investigation or the administration of justice, or for the maintenance of security and good order in the place of detention shall be forbidden.

*Principle 37*

A person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his arrest. Such authority shall decide without delay upon the lawfulness and necessity of detention. No person may be kept under detention pending investigation or trial except upon the written order of such an authority. A detained person shall, when brought before such an authority, have the right to make a statement on the treatment received by him while in custody.

*Principle 38*

A person detained on a criminal charge shall be entitled to trial within a reasonable time or to release pending trial.

*Principle 39*

Except in special cases provided for by law, a person detained on a criminal charge shall be entitled, unless a judicial or other authority decides otherwise in the interest of the administration of justice, to release pending trial subject to the conditions that may be imposed in accordance with the law. Such authority shall keep the necessity of detention under review.

*General clause*

Nothing in this Body of Principles shall be construed as restricting or derogating from any right defined in the International Covenant on Civil and Political Rights.<sup>1</sup>

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<sup>1</sup>See General Assembly resolution 2200 A (XXI), annex.

#### **4. Basic Principles for the Treatment of Prisoners\***

1. All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.
2. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. It is, however, desirable to respect the religious beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions so require.
4. The responsibility of prisons for the custody of prisoners and for the protection of society against crime shall be discharged in keeping with a State's other social objectives and its fundamental responsibilities for promoting the well-being and development of all members of society.
5. Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights,<sup>1</sup> and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights,<sup>2</sup> and the International Covenant on Civil and Political Rights and the Optional Protocol thereto,<sup>3</sup> as well as such other rights as are set out in other United Nations covenants.
6. All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.
7. Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.
8. Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labour market and permit them to contribute to their own financial support and to that of their families.

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\*General Assembly resolution 45/111, annex.

<sup>1</sup>General Assembly resolution 217 A (III).

<sup>2</sup>Assembly resolution 2200 A (XXI), annex.

<sup>3</sup>Ibid.



9. Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.
10. With the participation and help of the community and social institutions, and with due regard to the interests of victims, favourable conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions.
11. The above Principles shall be applied impartially.

## 5. Kampala Declaration on Prison Conditions in Africa\*

### *Prison conditions*

*Considering* that in many countries in Africa the level of overcrowding in prisons is inhuman, that there is a lack of hygiene, insufficient or poor food, difficult access to medical care, a lack of physical activities or education, as well as an inability to maintain family ties,

*Bearing in mind* that any person who is denied freedom has a right to human dignity,

*Bearing in mind also* that the universal norms on human rights place an absolute prohibition on torture of any description,

*Bearing in mind further* that some groups of prisoners, including juveniles, women, the old and the mentally and physically ill, are especially vulnerable and require particular attention,

*Bearing in mind* that juveniles must be separated from adult prisoners and that they must be treated in a manner appropriate to their age,

*Remembering* the importance of proper treatment for female detainees and the need to recognize their special needs,

*The participants in the International Seminar on Prison Conditions in Africa,<sup>1</sup> held at Kampala from 19 to 21 September 1996, recommend:*

1. That the human rights of prisoners should be safeguarded at all times and that non-governmental agencies should have a special role in this respect;

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\*Economic and Social Council resolution 1997/36, annex.

<sup>1</sup>The seminar was organized jointly by Prison Reform International and the African Commission on Human and Peoples' Rights, in partnership with the Foundation for Human Rights Initiative and the Government of Uganda through the Prisons Department, and with the participation of the International Committee of the Red Cross and International Prison Watch.

2. That prisoners should retain all rights which are not expressly taken away by the fact of their detention;
3. That prisoners should have living conditions which are compatible with human dignity;
4. That conditions in which prisoners are held and the prison regulations should not aggravate the suffering already caused by the loss of liberty;
5. That the detrimental effects of imprisonment should be minimized so that prisoners do not lose their self-respect and sense of personal responsibility;
6. That prisoners should be given the opportunity to maintain and develop links with their families and the outside world;
7. That prisoners should be given access to education and skills training in order to make it easier for them to reintegrate into society after their release;
8. That special attention should be paid to vulnerable prisoners and that non-governmental organizations should be supported in their work with these prisoners;
9. That all the norms of the United Nations and the African Charter on Human and Peoples' Rights<sup>2</sup> on the treatment of prisoners should be incorporated into national legislation in order to protect the human rights of prisoners;
10. That the Organization of African Unity and its member States should take steps to ensure that prisoners are detained in the minimum conditions of security necessary for public safety.

### *Remand prisoners*

*Considering* that in most prisons in Africa a great proportion of prisoners are awaiting trial, sometimes for several years,

*Considering also* that for this reason the procedures and policies adopted by the police, the prosecuting authorities and the judiciary can significantly influence prison overcrowding,

*The participants in the International Seminar on Prison Conditions in Africa, held at Kampala from 19 to 21 September 1996, recommend:*

1. That the police, the prosecuting authorities and the judiciary should be aware of the problems caused by prison overcrowding and should join the prison administration in seeking solutions to reduce this;

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<sup>2</sup>United Nations, *Treaty Series*, vol. 1520, No. 26363.

2. That judicial investigations and proceedings should ensure that prisoners are kept in remand detention for the shortest possible period, avoiding, for example, continual remands in custody by the court;

3. That there should be a system for regular review of the time detainees spend on remand.

### *Prison staff*

*Considering* that any improvement in conditions for prisoners will be dependent on staff having pride in their work and a proper level of competence,

*Bearing in mind* that this will only happen if staff are properly trained,

*The participants in the International Seminar on Prison Conditions in Africa, held at Kampala from 19 to 21 September 1996, recommend:*

1. That there should be a proper career structure for prison staff;

2. That all prison personnel should be linked to one government ministry and that there should be a clear line of command between the central prison administration and the staff in prisons;

3. That the State should provide sufficient material and financial resources for staff to carry out their work properly;

4. That in each country there should be an appropriate training programme for prison staff to which the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders should be invited to contribute;

5. That there should be a national or subregional institution to deliver this training programme;

6. That the penitentiary administration should be directly involved in the recruitment of prison staff.

### *Alternative sentencing*

*Noting* that, in an attempt to reduce prison overcrowding, some countries have been trying to find a solution through amnesties or pardons or by building new prisons,

*Considering* that overcrowding causes a variety of problems, including difficulties for overworked staff,

*Taking into account* the limited effectiveness of imprisonment, especially for those serving short sentences, and the cost of imprisonment to the whole of society,

*Considering* the growing interest in African countries in measures which replace custodial sentences, especially in the light of human rights principles,

*Considering* that community service and other non-custodial measures are innovative alternatives to imprisonment and that there are promising developments in Africa in this regard,

*Considering also* that compensation for damage done is an important element of non-custodial sentences,

*Considering further* that legislation can be introduced to ensure that community service and other non-custodial measures will be imposed as an alternative to imprisonment,

*The participants in the International Seminar on Prison Conditions in Africa, held at Kampala from 19 to 21 September 1996, recommend:*

1. That petty offences should be dealt with according to customary practice, provided this meets human rights requirements and that those involved so agree;
2. That, whenever possible, petty offences should be dealt with by mediation and should be resolved between the parties involved without recourse to the criminal justice system;
3. That the principle of civil reparation or financial recompense should be applied, taking into account the financial capability of the offender or of his or her parents;
4. That the work done by the offender should, if possible, recompense the victim;
5. That community service and other non-custodial measures should, if possible, be preferred to imprisonment;
6. That there should be a study of the feasibility of adapting successful African models of non-custodial measures and applying them in countries where they are not yet being used;
7. That the public should be educated about the objectives of these alternatives and how they work.

### *African Commission on Human and Peoples' Rights*

*Considering* that the African Commission on Human and Peoples' Rights has the mandate to ensure the promotion and the protection of human and peoples' rights in Africa,

*Considering also* that the Commission has shown on many occasions its special concern on the subject of poor prison conditions in Africa and that it has adopted special resolutions and decisions on this question previously,

*The participants in the International Seminar on Prison Conditions in Africa, held at Kampala from 19 to 21 September 1996, recommend that the African Commission on Human and Peoples' Rights:*

1. Should continue to attach priority to the improvement of prison conditions throughout Africa;
2. Should nominate a Special Rapporteur on Prisons in Africa as soon as possible;
3. Should make the member States aware of the recommendations contained in the present Declaration and publicize United Nations and African norms and standards on imprisonment;
4. Should cooperate with non-governmental organizations and other qualified institutions in order to ensure that the recommendations contained in the present Declaration are implemented in all the member States.

### **6. Status of foreign citizens in criminal proceedings\***

*The Economic and Social Council,*

*Guided* by the Universal Declaration of Human Rights, adopted and proclaimed by the General Assembly by its resolution 217 A (III) of 10 December 1948,

*Bearing in mind* the relevant international legal instruments in the field of human rights,

*Bearing in mind also* the 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 from 22 August to

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\*Economic and Social Council resolution 1998/22.

3 September 1955<sup>1</sup> and approved by the Economic and Social Council in its resolution 663 C (XXIV) of 31 July 1957, and the procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners, approved by the Council in its resolution 1984/47 of 25 May 1984 and set out in the annex thereto,

*Recalling* General Assembly resolution 49/159 of 23 December 1994, in which the Assembly approved the Naples Political Declaration and Global Action Plan against Organized Transnational Crime adopted by the World Ministerial Conference on Organized Transnational Crime, held at Naples, Italy, from 21 to 23 November 1994,<sup>2</sup>

*Conscious* of the need to respect human dignity and the recognized rights of persons undergoing criminal proceedings as set forth in the International Covenants on Human Rights,<sup>3</sup>

*Urges* Member States that have not yet done so to consider adopting the following measures:

(a) Carefully examine whether foreign citizens under criminal prosecution are guaranteed universally recognized rights with regard to criminal prosecution at all stages of proceedings;

(b) Ensure that individuals are not subjected to more severe custodial penalties or inferior prison conditions in a State solely because they are not nationals of that State;

(c) Undertake the necessary arrangements to ensure that any foreign citizen subject to criminal proceedings whose native language is not that of the State conducting the proceedings against him or her and who, for that reason, is unable to understand the nature of such proceedings has access throughout his or her trial to the services of a suitable interpreter in his or her native language, to the extent possible;

(d) Whenever permitted by its internal law or practice, make available to foreign citizens as well as to nationals, provided that they fulfil the relevant legal requirements, alternative penal sentences or administrative penalties provided for under the legislation of the State conducting proceedings;

(e) Intensify efforts to implement applicable international instruments, such as the Vienna Convention on Consular Relations,<sup>4</sup> concerning, inter alia, notification to consular authorities of the detention of their citizens.

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<sup>1</sup>United Nations publication, Sales No. 1956.IV.4, annex I, sect. A

<sup>2</sup>A/49/748, annex, chap. I, sect. A.

<sup>3</sup>General Assembly resolution 2200 A (XXI), annex.

<sup>4</sup>United Nations, *Treaty Series*, vol. 596, No. 8638.

## 7. Arusha Declaration on Good Prison Practice\*

*Aware* of the fact that the management of prisons is a social service and that it is important to keep the public informed about the work of prison services,

*Also aware* of the need to promote transparency and accountability in the management of prisons and of prisoners in Africa,

*Recalling* the Kampala Declaration on Prison Conditions in Africa,<sup>1</sup> which sets out an agenda for penal reform in Africa,

*Taking note* of the Kadoma Declaration on Community Service,<sup>2</sup> which recommends greater use of non-custodial measures for offences committed at the lower end of the criminal scale,

*Taking note also* of the provisions of the African Charter on Human and Peoples' Rights of 1981,<sup>3</sup> the International Covenant on Civil and Political Rights,<sup>4</sup> and the International Covenant on Economic, Social and Cultural Rights,<sup>4</sup> and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>5</sup> that safeguard the right to life, to a prompt trial and to human dignity,

*Bearing in mind* the Standard Minimum Rules for the Treatment of Prisoners,<sup>6</sup> the Basic Principles for the Treatment of Prisoners,<sup>7</sup> the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules),<sup>8</sup> the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment<sup>9</sup> and the Code of Conduct for Law Enforcement Officials,<sup>10</sup>

*Bearing in mind also* that prison officers who comply with national and international standards for the protection of prisoners deserve the respect and

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\*Economic and Social Council resolution 1999/27, annex.

<sup>1</sup>Economic Social Council resolution 1997/36, annex.

<sup>2</sup>Resolution 1998/23, annex I.

<sup>3</sup>United Nations, *Treaty Series*, vol. 1520, No. 26363.

<sup>4</sup>General Assembly resolution 2200 A (XXI), annex.

<sup>5</sup>Assembly resolution 39/46, annex.

<sup>6</sup>See *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955: report prepared by the Secretariat* (United Nations publication, Sales No.1956.IV.4), annex I, sect. A.

<sup>7</sup>General Assembly resolution 45/111, annex.

<sup>8</sup>General Assembly resolution 40/33, annex.

<sup>9</sup>General Assembly resolution 43/173, annex.

<sup>10</sup>General Assembly resolution 34/169, annex.

the cooperation of the prison administration where they serve and of the community as a whole,

*Noting* that conditions in most African prisons fall short of these minimum national and international standards,

*The participants in the Fourth Conference of the Central, Eastern and Southern African Heads of Correctional Services, meeting in Arusha from 23 to 27 February 1999, agree with the following principles:*

(a) To promote and implement good prison practice, in conformity with the international standards mentioned above, and to adjust domestic laws to those standards, if this has not yet been done;

(b) To improve management practices in individual prisons and in the penitentiary system as a whole in order to increase transparency and efficiency within the prison service;

(c) To enhance the professionalism of prison staff and to improve their working and living conditions;

(d) To respect and protect the rights and dignity of prisoners as well as to ensure compliance with national and international standards;

(e) To provide training programmes to prison staff that incorporate human rights standards in a way that is meaningful and relevant and to improve the skills base of prison officers and, for this purpose, to establish a training board of the Conference of the Central, Eastern and Southern African Heads of Correctional Services;

(f) To establish a criminal justice mechanism comprising all the components of the criminal justice system that would coordinate activities and cooperate in the solution of common problems;

(g) To invite civil society groups into the prisons to work in partnership with the prison services in order to improve the conditions of imprisonment and the working environment of prisons;

(h) To call upon Governments and national and international organizations to give full support to the present declaration.