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IMPLEMENTATION OF THE STANDARD MINIMUM RULES FOR
THE TREATMENT OF PRISONERS

Report of the Secretary-General

Summary

This report has been prepared in response to Economic and Social Council resolution 663 C I (XXIV). It contains updated information on the implementation of the Rules since the completion of the last quinquennial survey (A/CONF.121/15) in 1985. Its purpose is to provide an overview of the extent of the implementation of the Rules, as reported by each country; to provide a better understanding of the current difficulties in, and constraints on, implementing the Rules; to suggest viable remedies; and to enable the United Nations to assist Member States, at their request, in improving conditions in their prisons through, inter alia, the services of the interregional and regional advisers and the involvement of the regional and interregional institutes of the United Nations for the prevention of crime and the treatment of offenders. While maintaining basic consistency and comparability with previous surveys, the present one takes into account, for the first time, the Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners, as well as resolutions 10 and 17 adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Accordingly, special emphasis has been placed, inter alia, on the status of prisoners, prison work, and education and vocational training. As proposed by the Interregional Preparatory Meeting for the Eighth Congress on topic II (A/CONF.144/IPM.4), particular attention has also been given to practical strategies aimed at improving prison conditions and reducing overcrowding. As in the past, the results of the survey will provide a yardstick by which to assess the progress and needs of Member States and will direct the course of future action.

*A/CONF.144/1.

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INTRODUCTION

1. Surveys on the implementation of the Rules were conducted, and reports prepared, for the consideration of the last four United Nations congresses on the prevention of crime and the treatment of offenders (in 1970, 1975, 1980 and 1985). For the survey conducted in 1990, the Secretary-General, by his note verbale of 23 June 1989, invited Governments and other parties concerned to provide information on a number of special issues in addition to data on the application, dissemination and implementation of the Rules.* The present report, after reviewing general principles, covers a wide range of topics based upon the replies to the note verbale of Governments, the regional and inter-regional institutes of the United Nations for the prevention of crime and the treatment of offenders, as well as of intergovernmental and non-governmental organizations.

I. REVIEW OF GENERAL PRINCIPLES

2. In many countries, the prison population continues to increase. Among those that contributed information to the two most recent United Nations surveys of crime trends, operations of criminal justice systems and crime prevention strategies (A/CONF.121/18 and A/CONF.144/6), a comparison between the years 1975 and 1980 (based on the replies of 22 countries) showed that, in 14 countries, the rate of prison population per 100,000 inhabitants had increased, while in only 8 had it decreased. In the comparison between the years 1980 and 1985 (based on the replies of 26 countries), in 17 countries the rate had increased, while in 9 it had decreased.

3. Imprisonment is the most severe punishment normally provided in national legislation for various types of crime. Whether or not the ultimate sanction of capital punishment is also available, imprisonment involves an act of coercion by the State against a citizen that can only be justified if it is accompanied by proper procedures and safeguards. International standards are set out in the Standard Minimum Rules for the Treatment of Prisoners, the Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolution 1984/47, annex), and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173) as well as the Model Agreement on the Transfer of Foreign Prisoners and recommendations on the treatment of foreign prisoners, adopted by the Seventh Congress. ^{1/} Further provisions are also contained in the Universal Declaration of Human Rights (General Assembly resolution 217 A (III)) and the International Covenant on Civil and Political Rights and its Optional Protocol (General Assembly resolution 2200 A (XXI)). They are further elaborated in the draft basic

*As at 1 June 1990, 49 countries had replied to the note verbale of the Secretary-General: Argentina, Australia, Austria, Bahamas, Bolivia, Botswana, Byelorussian Soviet Socialist Republic, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czech and Slovak Federal Republic, Denmark, Ecuador, Egypt, Finland, France, German Democratic Republic, Germany, Federal Republic of, Greece, Guatemala, Indonesia, Italy, Japan, Jordan, Malawi, Mauritius, Mexico, Netherlands, Norway, Philippines, Poland, Portugal, Qatar, Singapore, South Africa, Spain, Sri Lanka, Switzerland, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Uruguay and Yugoslavia.

principles for the treatment of prisoners, which are before the Eighth Congress for its consideration.*

4. The need for such procedures and safeguards is generally recognized when detention takes place before or during trial; but it is equally important, although less generally recognized, after the sentencing during the period of imprisonment itself. Such procedures and safeguards are important for the following reasons:

(a) Imprisonment gives the State an exceptional degree of authority and control over those who are imprisoned, for whom safeguards are needed to prevent abuse;

(b) Imprisonment creates a potentially volatile environment, which requires a special and highly developed professionalism on the part of prison staff;

(c) Frequently, prisoners attract little sympathy from members of the public, or from those who are normally ready to act on the public's behalf in order to prevent abuse or obtain redress: special attention is therefore needed to ensure that the human rights of prisoners, as set out in international instruments, are properly protected;

(d) Abuse can more easily pass undetected because most prisons are closed institutions, often situated in remote areas where access is difficult. The families and friends of prisoners may themselves be vulnerable or inarticulate, and therefore reluctant or unable to make themselves heard.

5. The Rules and other internationally accepted instruments set out standards designed to protect the human rights of prisoners. They are not, however, complete, in the sense that they do not provide a total guarantee against abuse, and they are not yet fully in operation on a uniform basis throughout the world. They need to be supported in each country by a clearly defined and publicly recognized understanding that would cover:

(a) The goals of imprisonment;

(b) The types of offender for whom imprisonment is needed, and those for whom community-based penalties would be sufficient and practicable;

(c) The kind of treatment that imprisonment is intended to encompass;

(d) The basis on which authority is exercised within prisons.

6. Such an understanding is needed not only to prevent the abuse or arbitrary use of authority, but also to provide a framework for the development of policy and practice, and to give the staff a sense of professional identity and purpose.

7. The application of the Rules may vary between countries and cultures and also change over time. Countries may have different views about the extent to which experience in prison can be expected to affect the prisoner's future behaviour; the types of offender who should or should not be subject to

*See Official Records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31) chap. I, sect. C, decision 11/115.

imprisonment; the extent to which prison administration should be subject to judicial oversight; the value and purpose of prison work or education; the nature and the content of disciplinary action; or the recruitment, status, conditions and training of staff. There is unlikely to be world-wide agreement on such matters: any attempt to achieve it would probably result in a general statement that countries could interpret in different ways. The Rules themselves, under "Preliminary Observations", recognize that they 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 is important that in each country, the issues should be publicly determined, clearly stated, subject to inspection or judicial review and open to public debate.

8. The absence of such an understanding and such a public debate may lead to a rigidity in the administration of prisons and a reluctance to adapt to changing circumstances, which are factors that contribute to overcrowding, prison riots, drug-taking and the spread of the acquired immunodeficiency syndrome (AIDS), as well as recidivism. Coupled with such an understanding and debate, the Rules remain a fundamentally important statement of human principles, which should be common to all countries and cultures and applied as far as possible in all situations.* In particular, they are an expression of the need for all prison administrations, however different their objectives may be, to implement the sanction of imprisonment in ways which:

(a) Respect and, where possible, restore the personal dignity of those committed to their charge;

(b) Provide the basic conditions of civilized life and consideration for others;

(c) Recognize that prisons, like other institutions, are part of society and should function and treat prisoners accordingly;

(d) Ensure that standards of hygiene, privacy and care do not fall significantly below those that are considered acceptable for the population as a whole;

(e) Offer prisoners some sense of personal responsibility and control over their lives and livelihood.

9. Physical conditions; the range and content of activities available; the conduct of staff; the channels for communication and, if necessary, complaint; and the sanctions against misconduct, whether by prisoners or by staff, should

*In connection with the question of whether the Rules may have become legally binding, see the working paper prepared by the Secretariat on United Nations norms and guidelines in crime prevention and criminal justice: implementation and priorities for further standard-setting (A/CONF.144/18, sect. II, subsect. B). See, also, Concluding Document of the Vienna Meeting 1986 of Representatives of the Participating States of the Conference on Security and Co-operation in Europe held on the Basis of the Provisions of the Final Act relating to the Follow-up to the Conference, in which the participating States agreed, *inter alia*, to observe the Standard Minimum Rules for the Treatment of Prisoners.

all be based on mutual respect between those who manage prisons, those who work in them and those who are committed to their charge.

II. SURVEY OF SPECIAL ISSUES

10. In order to obtain fuller information about various aspects covered by the Rules, questions were asked not only about the application, dissemination and implementation of the Rules, but also about a number of special issues, including the status and human rights of prisoners, reduction of prison populations, foreign prisoners, medical services, discipline and punishments, prison work, education and vocational training, treatment programmes, contacts with the outside world and institutional personnel. These special issues are considered in paragraphs 11-45 below and the application, dissemination and implementation of the Rules in paragraphs 46-55. Although there has been insufficient time for a full analysis of all the material received, the valuable contributions of the 49 countries and the non-governmental and other organizations that replied to the questionnaire has enabled the present report to cover a wide range of topics.

A. Status and human rights of prisoners

11. Almost all the countries indicated that access to the judiciary and to lawyers was available to prisoners but only about half the countries reported that decisions of prison administrators concerning the status and rights of prisoners were subject to judicial review. Several other countries, however, mentioned that judicial review was available in respect of a few types of administrative decision.

12. Most countries reported that communication between the prison administration and the prison population was maintained by means of personal contacts and more than half of these noted that letters were an alternative means. Two countries mentioned that a commission of inmates or representatives of prisoners fulfilled this role and another country referred to an information booklet that was provided for prisoners.

13. A wide range of grievance procedures was described, including oral or written complaints to the prison administration or the overall prison authorities. Many countries mentioned the possibility of appealing to the minister of justice or head of State.

14. The entitlement of prisoners to financial or legal assistance in making their complaints varies considerably. Over half the countries reported that one (or both) type(s) of assistance was (were) available; legal assistance was more prevalent, however.

15. Over three quarters of the countries indicated that prisoners had access to an ombudsman, or a similar system, or that they were able to appeal to the courts for redress. Only three countries reported that no such provision existed; the remainder mentioned safeguards, such as the right to petition for clemency, and the fact that prison activities were monitored by the public prosecutor. Over half of the countries reported additional mechanisms for protecting the human rights of prisoners.

16. Three quarters of the countries reported that specific operational standards existed to safeguard the human rights of prisoners. Several countries pointed out that such standards existed only to a limited degree and four said that no such standards had been established.

B. Reduction of the prison population*

17. Almost half the countries indicated a serious shortage of space for detainees and several mentioned some shortages. Almost one third reported a serious shortage of space for convicted prisoners and almost one fifth also reported a shortage of other physical facilities (medical services, recreational facilities, workshop space etc.).

18. Many countries reported that various policies and strategies had been adopted to reduce the prison population. Over 60 per cent had introduced changes in penal legislation and sentencing policies. More than half were attempting to reduce the number of persons under detention pending trial, particularly through bail or release on recognizance.

C. Transfer of foreign prisoners

19. The majority of the countries said that action was being taken to allow foreign prisoners to serve their sentence in their countries of origin. Actions included ratifying and implementing conventions such as the Convention on the Transfer of Sentenced Persons of the Council of Europe (1983) and the Berlin multilateral convention on the transfer of convicted persons (1979). Many had also negotiated bilateral agreements. Seventeen countries mentioned that they were using the Model Agreement on the Transfer of Foreign Prisoners 1/ for bilateral negotiations. A number of countries incorporated provisions for transfer within national legislation.

20. Several countries mentioned that, in accordance with rule 38 of the Standard Minimum Rules, and the recommendations on the treatment of foreign prisoners, 1/ foreign prisoners were allowed to communicate as necessary with the diplomatic and consular representatives of their own State or the State taking charge of their interests. Other procedures included visits to foreign nationals serving a sentence in a separate ward from the main prison population and distributing prison brochures in appropriate languages. There was also evidence of the application of non-custodial sanctions to foreign prisoners, where possible.

D. Medical services

21. The majority of the countries indicated that a broad range of medical services, hospital facilities and specialist treatment was available for the care of prisoners, although provision varied and large establishments were better equipped than smaller prisons. A quarter of the countries pointed out that every institution operated a medical unit of some kind. There was also evidence of national legislation making provision for specialist psychiatric care. Only one quarter of the countries, however, stated that the health care provided for prisoners was equivalent to that existing for the rest of the population.

*See also "Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures: Alternatives to imprisonment and reduction of the prison population - report of the Secretary-General" (A/CONF.144/12) and "Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures: research on alternatives to imprisonment - report of the Secretary-General" (A/CONF.144/13).

22. In cases where prisoners required medical attention, most countries provided treatment within the institution if possible. Otherwise, prisoners were transferred to prison hospitals or to civilian hospitals capable of providing specialist or intensive care. A number of countries stated that the medical needs of prisoners were the only factors influencing the kind of care provided. Only one country said that prisoners, as a matter of policy, received all medical care within the community to aid the rehabilitative process.

23. A number of impediments to providing optimum health care for prisoners were acknowledged, including professional, material and financial shortages. For example, although all the prisons in one country were serviced by one or two doctors, they did not have adequate access to medical equipment or pharmaceutical products.

24. All the countries emphasized the inadmissibility of scientific or medical experiments, undertaken without the consent of prisoners, which might result in physical or mental injury. In fact, such experiments were generally inadmissible even with the consent of inmates, although one country replied that operational medical research would be permitted in certain circumstances with the patient's consent and the joint agreement of the Medical Research Council and the Commissioner of Prisons. Another country, while excluding the possibility of scientific or medical experimentation, explained that consenting prisoners might participate in those sociological studies that had prior authorization from the prison authorities.

E. Discipline and punishment

25. Most countries indicated that the obligations of prisoners were set out in rules and regulations covering, for example, the maintenance of order, the abuse of substances, and escape or behaviour constituting a criminal offence. A range of punishments were described, including removal to solitary confinement or a punishment cell; extension of sentence; restrictions on leave; the loss of rights and privileges, such as receiving letters, telephone calls and visits; fines or the loss of remuneration; reprimand; additional cleaning duties; transfer to a special prison colony or to less favourable prison conditions. Prosecution was possible in the case of criminal behaviour. Only one country admitted using corporal punishment. Another replied that untried prisoners were not subject to punishment.

26. The authority to impose punishment varied among the countries. In most cases, the prison governor was invested with such authority, although some countries stated that it was exercised by more junior prison personnel. In some countries, cases involving serious infractions were referred to higher authorities such as the central prison administration. Other bodies that were cited included the police, the judiciary, boards of directors, prison rule committees and disciplinary councils. Most countries specified that an investigation of each case took place and some mentioned the right of prisoners to present evidence, to attend a hearing and to be informed of charges brought against them. Only one reply stated that the prison governor had the authority to impose a penalty without prior investigation.

27. Over half the countries stated that decisions in disciplinary proceedings were subject to review by a higher authority, which in many instances was a senior official of the prison service. Six countries stated that the decision of the initial adjudication was final.

28. Guidance on what constituted cruel, inhuman or degrading treatment or punishment existed in most of the countries. Such guidance was provided by

national legislation, prison regulations, court procedures and rulings, and, indirectly, by codes of conduct for prison officers. The guidance ranged from commentaries on United Nations and European conventions, recommendations on restraining the use of force and, within the constitution of one country, a prohibition on punishment involving mutilation, public degradation, corporal punishment and torture, or those punishments that had a detrimental effect on other persons.

F. Prison work

29. Twenty-two countries reported that sufficient work was available for all convicted prisoners. A further 18 stated that insufficient work was available, and one country explicitly indicated that there was no provision of work.

30. Work for prisoners included farming and animal husbandry; production and assembly work; building, construction and maintenance; general handicrafts; woodwork; textiles, tailoring and dressmaking; metalwork; kitchen work; printing and bookbinding; shoemaking and leatherwork; laundry; electrical and mechanical work; administrative and clerical tasks; horticulture; carpet making; graphics; forestry; fishing and mining. Two countries reported that between 60 and 80 per cent of the prison population was employed by outside employers, but in general such involvement was not substantial.

31. A number of factors influenced the ability of the countries to provide useful work for prisoners. Security requirements were of concern to 26 of the countries. Competition with the outside market was also a problem as were, to a lesser degree, complaints by unions and self-management groups; a shortage of work, tools and facilities; budgetary constraints; general economic conditions; and staff shortages. In 27 countries, the participation of prisoners in vocational training courses was as follows: in 14 countries up to 20 per cent of the prison population participated; in 7 countries between 21 and 40 per cent participated; in 1 country, 41 to 60 per cent participated; in 2 countries between 61 and 80 per cent participated; and in 3 countries between 81 and 100 per cent participated.

32. The earnings of untried prisoners ranged from 0.2 per cent to 100 per cent of the national average wage. In two countries, the weekly earnings were the same as the national average, while in the other six that provided such information they ranged from 0.2 to 12 per cent. The earnings of convicted prisoners in the 25 countries that provided such information ranged from 0.2 to 100 per cent. Five countries stated that convicted prisoners were paid the full average weekly wage; 15 of the other countries paid wages no higher than 30 per cent of the national average.

G. Education and vocational training

33. The facilities provided by countries for the education of prisoners varied considerably. In a few instances, no provision had been made. Many replies revealed differences between the provisions for convicted and for unconvicted prisoners. Nine countries stated that no educational facilities were available for the latter.

34. The education provided varied from basic literacy and numeracy to secondary and tertiary opportunities. Education was generally organized by the prison authorities or, less frequently, by the national education departments. Some countries permitted prisoners to study by correspondence course or, rarely, to attend specific courses outside the institution. Many

countries included vocational training as part of a general education for prisoners and a few organized specific educational programmes for juvenile offenders.

35. In most countries, prisoners were informed of educational possibilities on admission. Many countries also undertook formal assessments of the educational status of prisoners as a basis for individual study programmes. A few countries viewed education as a voluntary commitment and, therefore, did not make standard assessments. In one country, prisoners undertook self-assessments as this was believed to increase motivation.

36. Many countries viewed education as recreation and did not pay prisoners for the time spent in studying. The majority of the countries stated that any certificates, diplomas and other indications of educational attainment gained by prisoners were of an equivalent standing to those awarded externally.

37. Very few countries were able to assist prisoners in continuing their studies once they had been released. Where this facility existed, it was either part of after-care or co-ordinated by voluntary organizations.

H. Treatment programmes

38. The information provided on treatment programmes was as follows:

(a) Educational and vocational training: many countries stated that equipping prisoners with educational and vocational skills was a positive aid to their reintegration. Only one country stated that treatment programmes of this kind did not reduce recidivism;

(b) Assessment and counselling: individual attention to the needs of prisoners, including individual action plans, counselling, assessment and pre-release courses was considered beneficial by a number of countries;

(c) Substance abuse control programmes: several countries administered programmes for prisoners who abused drugs or alcohol or who were at risk of abuse. One country made provision for those convicted of offences involving drinking and driving. Physical exercise featured prominently in several of the programmes;

(d) Temporary release from prison: a variety of different schemes were operated, including parole, home leave, work release and, in one case, education projects on board ship;

(e) Psychiatric support and assessment: this was felt to be valuable in targeting care for vulnerable prisoners;

(f) More collaborative and less severe prison régimes: several countries reported that operating more relaxed and flexible prison régimes proved beneficial to prisoners;

(g) Links with families: encouraging links between prisoners and families was emphasized by a number of countries. One country operated an open-prison régime for women prisoners and their children.

39. The other programmes mentioned included religious and moral instruction, physical exercise, treatment programmes for sex offenders and special projects for young offenders. Most countries used some form of evaluating programmes.

I. Contacts with the outside world

40. It was noted that the access of prisoners to the telephone was influenced by a number of factors. Some countries permitted unsentenced prisoners greater access to the telephone, while in other countries, its use was restricted to convicted prisoners. Other factors mentioned included: greater access for first-time offenders; access only for juveniles or women prisoners; the presence of a police officer; and restrictions imposed on prisoners convicted of drug offences. The scarcity of telephones nationally was often cited as an impediment. Several countries indicated that telephone calls were monitored. The extent of access varied from no telephone calls allowed under any circumstances, messages relayed via staff or social workers, calls permitted in the case of emergencies or on compassionate grounds with the prior authorization of the prison director, calls permitted to lawyers, a specified number and duration of calls permitted to no restrictions other than those relating to general security and control. Several countries mentioned that untried prisoners came under the jurisdiction of the examining judge who was responsible for specifying what contact was permitted. One country offered access to the telephone as a reward for good behaviour.

41. Most countries stated that few or no limitations were placed on written communications between prisoners and their families and friends. Some countries however, differentiated between categories of prisoner and the length of sentence and some took the location of the prison into account. One country only permitted correspondence with friends when it was deemed useful to rehabilitation; this restriction was not applied to unsentenced prisoners. In the majority of cases, prisoners were allowed unlimited correspondence with legal representatives and probation officers. One country did not permit correspondence with journalists.

42. Restrictions on visits to prisoners varied greatly. Three countries reported that no restrictions were made on the frequency or duration of visits by families and friends. The majority of the countries indicated that between 1 and 12 visits of varying duration were permitted per month. A minority of the countries permitted either extended or conjugal visits. Factors influencing visits included the number of visitors allowed at any one time, the nature of the visit, institutional priorities and the category of the prisoner.

43. Several countries permitted juveniles to receive more frequent visits. One country stated that women prisoners could receive an additional visit from their children each month although another country did not permit visits from persons under 14 years of age. In general, no other restrictions were placed on who might visit except in relation to those who might affect the security of the institution; some countries did not permit visits from ex-prisoners.

44. Most countries used some form of prison leave, including compassionate leave, day parole, escorted leave, weekend furlough and special annual leave entitlements.

J. Institutional personnel

45. Many countries emphasized the important role of prison personnel in ensuring that the Rules were effectively implemented. The majority of the countries specified that institutional personnel should satisfy certain basic criteria regarding: health and fitness, psychological stability, the attainment of a certain educational standard, knowledge of a particular skill or trade and the absence of a criminal record. Candidates might also be required

to be above a certain age and to be a national of the country concerned, or to have been a member of the police or army. Suitability was assessed by performance in an entrance examination, but this was not common. Training for prison staff varied considerably in length and usually combined both practical and theoretical elements. Few of the countries conducted refresher courses for staff, although one country organized such training on a continuing basis and its content was determined by regular staff appraisal systems.

III. APPLICATION, DISSEMINATION AND IMPLEMENTATION OF THE RULES

46. Governments were asked to provide a description of the extent to which the Standard Minimum Rules were being implemented in their countries. While in the surveys requesting information for consideration by the congresses held in 1975, 1980 and 1985 questions were asked about sections of the Rules according to the headings of the Rules, in the present survey, for the first time, questions were asked about each Rule separately. Forty countries have taken part in at least three of the last four surveys, and the countries participating for the first time in the present survey - Ecuador, Jordan, Malawi, South Africa and Uganda - bring to 100 the number of countries that have taken part in at least one such survey.

A. Application

47. Governments were asked if the substance of the Rules was covered by existing legislation and in particular if any of the Rules had been embodied in national legislation and other regulations. Almost all the countries that answered this question indicated either that the substance of the Rules was covered by existing legislation or that the Rules had been embodied in their prison laws, regulations or rules. Only two countries reported that the substance of most, but not all, of the Rules was covered by existing legislation. One country said that the substance of the Rules was only partially covered and one said that the substance of the Rules was not covered.

B. Dissemination

48. Almost all the countries reported that the Rules had been translated and published in the official language(s) of their country as a separate document. Two countries that had more than one official language indicated that the Rules had not been translated into every official language. Three countries reported that, while they had not yet published a translation of the Rules, translations were being prepared or had already been completed with a view to publication. Only two countries indicated that no translation was being prepared but one of them said that they intended to translate and publish the Rules. One country did not know if the Rules had been published in its language.

49. Almost all the countries reported that the Rules were available to law enforcement officials and correctional personnel, for the purpose of enabling them to be applied to the criminal justice system. Six countries indicated that the Rules were not made available in this way, but two of them pointed out that regulations based on the Rules were available instead.

50. Most countries reported that the Rules were used in the training of staff. Four countries however, gave qualified answers indicating, for example, that regulations based on the Rules were used for training purposes, or that there was only limited use of the Rules for training purposes. Four countries reported that the Rules were not used for training purposes.

51. Governments were also asked if the Rules, as embodied in national legislation and other regulations, were made available and explained to all prisoners and all persons under detention on their admission and during their confinement. About 60 per cent of the countries that answered this question indicated that the Rules were made available at some time during the period of confinement, at least in the form of the legal codes in which they were embodied. Many of these countries mentioned that the Rules were available in the prison library. A further 30 per cent of the countries that answered this question indicated that the Rules were routinely explained or explained on request or that at least some explanatory work was undertaken. Only four countries reported that the Rules were neither available nor explained but one of them indicated that provision for such dissemination was being made in revised regulations.

52. Finally, Governments were asked if prisoners and persons under detention received copies of the Rules in their own language or a language that they understood. Less than a quarter of the 39 countries that answered this question indicated that such persons received the Rules in such a form automatically.

C. Implementation

1. Tabular summary

53. Despite the acceptance of the basic principles of the Rules throughout the world, many countries reported that there were still obstacles to their full implementation. The table below shows the extent of the implementation of the Rules as reported by the Governments of the 49 participating States.

2. Commentary and reasons for discrepancies

54. Governments were invited to indicate not only the extent of the implementation of the Rules, but also the reason for any discrepancies between the Rules and the law or practice in their countries. Their answers are summarized in the paragraphs below.

Rules of general application

Rule 6 (Basic principle)

55. Rule 6 (1) requires that all the Rules shall be applied impartially and that 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. Rule 6 (2) requires respect for the religious beliefs and moral precepts of prisoners. All the countries reported their adherence to Rule 6; four countries were unable to implement it fully, however, mainly for budgetary, economic or geographical reasons.

Rule 7 (Register)

56. Rule 7 (1) requires that a register be kept in each prison giving details of each prisoner's identity, the reasons and authority for his or her commitment, and the day and hour of admission and release. Rule 7 (2) requires that no prisoner be received in an institution without a valid commitment order whose details have been entered in the register. All the countries reported adherence to this Rule; two countries were unable to implement it fully, however, mainly for economic reasons and a lack of infrastructure.

Survey of the replies from Member States on the implementation
of the Standard Minimum Rules for the Treatment of Prisoners

Rule number	Subject	Number and type of reply						Total g/
		Implemented a/	Implemented partially b/	Recognized in principle c/	Not implemented d/	Not applicable e/	No response f/	
Rules of general application								
6	Basic principle	40	3	1	-	-	2	46
7	Register	41	2	-	-	-	3	46
8	Separation of categories	25	16	1	2	-	2	46
9	Accommodation	22	12	6	3	-	3	46
10	Accommodation	32	7	4	1	-	2	46
11	Accommodation	35	6	2	1	-	2	46
12	Accommodation	36	6	1	1	-	2	46
13	Accommodation	34	6	2	2	-	2	46
14	Accommodation	37	5	1	1	-	2	46
15	Personal hygiene	37	5	2	-	-	2	46
16	Personal hygiene	38	4	1	1	-	2	46
17	Clothing and bedding	37	5	-	2	-	2	46
18	Clothing and bedding	38	4	1	1	-	2	46
19	Clothing and bedding	37	3	3	1	-	2	46
20	Food	36	8	-	-	-	2	46
21	Exercise and sport	31	13	-	-	-	2	46
22	Medical services	30	11	1	1	-	3	46
23	Medical services	29	11	2	1	-	3	46
24	Medical services	36	5	-	2	-	3	46
25	Medical services	33	8	-	2	-	3	46
26	Medical services	32	7	1	2	1	3	46
27	Discipline and punishment	41	3	-	-	-	2	46
28	Discipline and punishment	37	5	-	2	-	2	46
29	Discipline and punishment	39	3	-	2	-	2	46
30	Discipline and punishment	40	2	-	2	-	2	46
31	Discipline and punishment	34	7	-	3	-	2	46
32	Discipline and punishment	34	10	-	-	-	2	46
33	Instruments of restraint	40	4	-	-	-	2	46
34	Instruments of restraint	42	1	-	2	-	1	46
35	Information to and complaints by prisoners	34	9	1	-	-	2	46

continued

Number and type of reply

Rule number	Subject	Implemented a/	Implemented partially b/	Recognized in principle c/	Not implemented d/	Not applicable e/	No response f/	Total g/
36	Information to and complaints by prisoners	42	2	-	1	-	1	46
37	Contact with the outside world	44	1	-	-	-	1	46
38	Contact with the outside world	43	1	-	-	1	1	46
39	Contact with the outside world	42	3	-	-	-	1	46
40	Books	33	10	-	-	1	2	46
41	Religion	36	4	4	-	-	2	46
42	Religion	39	4	1	-	-	2	46
43	Retention of prisoners' property	42	1	-	1	-	2	46
44	Notification of death etc.	39	4	1	-	-	2	46
45	Removal of prisoners	42	2	-	-	-	2	46
46	Institutional personnel	33	9	-	1	-	3	46
47	Institutional personnel	31	11	-	2	-	2	46
48	Institutional personnel	36	7	-	1	-	2	46
49	Institutional personnel	31	11	2	-	-	2	46
50	Institutional personnel	34	8	1	1	-	2	46
51	Institutional personnel	41	3	-	-	-	2	46
52	Institutional personnel	27	14	2	-	1	2	46
53	Institutional personnel	34	5	1	1	3	2	46
54	Institutional personnel	40	4	-	-	-	2	46
55	Inspection	38	3	1	2	-	2	46
(a) Prisoners under sentence								
56	Guiding principles	42	1	1	-	-	2	46
57	Guiding principles	40	3	1	-	-	2	46
58	Guiding principles	39	4	1	-	-	2	46
59	Guiding principles	39	4	1	-	-	2	46
60	Guiding principles	38	5	1	-	-	2	46
61	Guiding principles	40	4	-	-	-	2	46

continued

Rule number	Subject	Number and type of reply						Total g/
		Implemented a/	Implemented partially b/	Recognized in principle c/	Not implemented d/	Not applicable e/	No response f/	
62	Guiding principles	37	5	-	1	-	3	46
63	Guiding principles	29	12	2	1	-	2	46
64	Guiding principles	35	3	4	2	-	2	46
65	Treatment	39	4	-	-	-	3	46
66	Treatment	33	9	1	-	-	3	46
67	Classification and individualization	35	5	1	2	-	3	46
68	Classification and individualization	32	9	-	2	-	3	46
69	Classification and individualization	31	11	1	-	-	3	46
70	Privileges	37	4	-	3	-	2	46
71	Work	29	14	-	1	-	2	46
72	Work	37	6	-	1	-	2	46
73	Work	34	7	2	1	-	2	46
74	Work	34	5	3	2	-	2	46
75	Work	37	3	1	3	-	2	46
76	Work	30	12	1	1	-	2	46
77	Education and recreation	36	8	-	-	-	2	46
78	Education and recreation	39	5	-	-	-	2	46
79	Social relations and after-care	42	4	-	-	-	-	46
80	Social relations and after-care	41	4	1	-	-	-	46
81	Social relations and after-care	34	7	-	3	2	-	46
	(b) <u>Insane and mentally abnormal prisoners</u>							
82	Insane and mentally abnormal prisoners	35	7	2	1	1	-	46
83	Insane and mentally abnormal prisoners	31	4	5	1	1	4	46

continued

Rule number	Subject	Number and type of reply						Total g/
		Implemented a/	Implemented partially b/	Recognized in principle c/	Not implemented d/	Not applicable e/	No response f/	
<u>(c) Prisoners under arrest or awaiting trial</u>								
84	Prisoners under arrest or awaiting trial	37	4	1	1	1	2	46
85	Prisoners under arrest or awaiting trial	25	12	2	4	1	2	46
86	Prisoners under arrest or awaiting trial	11	13	12	6	1	3	46
87	Prisoners under arrest or awaiting trial	33	8	-	2	1	2	46
88	Prisoners under arrest or awaiting trial	33	8	-	1	1	3	46
89	Prisoners under arrest or awaiting trial	31	10	-	1	1	3	46
90	Prisoners under arrest or awaiting trial	39	3	-	-	1	3	46
91	Prisoners under arrest or awaiting trial	25	8	1	2	7	3	46
92	Prisoners under arrest or awaiting trial	37	5	-	-	1	3	46
93	Prisoners under arrest or awaiting trial	36	5	-	-	1	4	46
<u>(d) Civil prisoners</u>								
94	Civil prisoners	20	2	-	1	21	2	46

Survey (continued)

Rule number	Subject	Number and type of reply						Total g/
		Implemented a/	Implemented partially b/	Recognized in principle c/	Not implemented d/	Not applicable e/	No response f/	
	(e) <u>Persons arrested or imprisoned without charge</u>							
95	Persons arrested or imprisoned without charge	16	5	-	2	22	1	46

a/ The term "implemented" means that the specific Rule is fully applied in law and in practice.

b/ The term "implemented partially" means that the specific Rule is being applied only to a limited extent. Where a country gave different answers to different subsections of a Rule, that Rule has been classified as having been implemented partially by the country if at least one subsection of the Rule was implemented partially.

c/ The term "recognized in principle", means that the specific Rule is not being implemented but would be if circumstances permitted; for example, if prisons are overcrowded, the accommodation of prisoners in single rooms may be impossible.

d/ The term "not implemented" means that there is no intention at present of implementing the particular Rule.

e/ The term "not applicable" means that the Rule does not apply in the prevailing circumstances (for example, when the law does not permit imprisonment for debt).

f/ This category includes some responses that did not reveal the extent of the implementation of a particular Rule.

g/ Three of the 49 countries taking part in the survey did not provide information for this tabular summary.

Rule 8 (Separation of categories)

57. Rule 8 requires that different categories of prisoner 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. Almost all the countries reported adherence to this Rule. Over 40 per cent were unable to apply it fully, however, mainly for budgetary and economic reasons and because of overcrowding. Three countries said that their infrastructure was inadequate for the purpose. Several countries pointed out that while they were able to detain men and women in separate institutions and to keep young prisoners separately from adults, they could not always keep untried prisoners separately from convicted prisoners.

Rules 9-14 (Accommodation)

58. Rules 9-14 include requirements in respect of single-cell occupancy and the careful selection of prisoners located in dormitories (Rule 9); health standards, space, lighting, heating and ventilation (Rule 10); the provision of adequate lighting in all places where prisoners live and work (Rule 11); sanitary installations (Rule 12); bathing and shower facilities (Rule 13); and maintenance and cleanliness of the institution (Rule 14).

59. About half of the countries reported that Rule 9 was not fully implemented, mostly for budgetary and economic reasons. Three countries in one region indicated that their infrastructure was inadequate and several countries pointed out that overcrowding was a significant factor. Five countries also mentioned technical reasons, such as the distribution of space within their institutions. But only three countries did not indicate their intention of implementing the Rule.

60. By contrast, over two thirds of the countries indicated that Rule 10 was fully implemented and at least three quarters gave a similar answer in respect of Rules 11-14. Non-adherence to any of these Rules was confined to two countries. The reasons given for less than full implementation were invariably associated with budgetary, economic or infrastructural difficulties; two countries mentioned technical reasons for the incomplete implementation of Rules 12-14 and two (from the same region) mentioned cultural reasons in respect of Rules 12 and 13.

Rules 15-16 (Personal hygiene)

61. Rule 15 requires that prisoners shall keep themselves clean and be provided with water and the necessary toilet articles to enable them to do so. Rule 16 requires that prisoners shall be enabled to maintain a good appearance, compatible with their self-respect, by the provision of facilities for the proper care of the hair and beard and by being enabled to shave regularly

62. All the countries reported their adherence to Rule 15 and over 80 per cent reported its full implementation. Budgetary, economic and infrastructural difficulties were given as reasons by those countries that were unable to implement it fully. Rule 16 was adhered to by all but one country and over 85 per cent of the countries reported its full implementation. Budgetary and economic difficulties were again given as reasons by the few countries that were unable to implement it fully.

Rules 17-19 (Clothing and bedding)

63. Rules 17-19 include requirements in respect of the use of suitable and clean clothing (Rules 17-18) and the provision of a separate bed and clean bedding (Rule 19). All these Rules were fully implemented by 80-85 per cent of the countries and non-adherence to any of them was confined to two countries. Budgetary and economic reasons were again given by almost all the countries that reported less than full implementation.

Rule 20 (Food)

64. Rule 20 requires that prisoners shall be provided at regular hours with nourishing, wholesome food that is well prepared and served, and with drinking water whenever it is needed. All the countries reported their adherence to this Rule and the eight (18 per cent) that were unable to implement it fully mentioned budgetary and economic reasons.

Rule 21 (Exercise and sport)

65. Rule 21 requires that every prisoner not employed in outdoor work shall have at least one hour of suitable open-air exercise daily, and that young prisoners and others shall receive physical and recreational training during the period of exercise. All the countries reported adherence to this Rule and over 70 per cent of them reported its full implementation. The remaining 30 per cent mentioned budgetary, economic and technical difficulties as obstacles.

Rules 22-26 (Medical services)

66. Rule 22 includes requirements in respect of the availability of qualified medical officers with some knowledge of psychiatry (Rule 22 (1)); the transfer to specialized institutions or civil hospitals of sick prisoners requiring specialist treatment (Rule 22 (2)); and the services of a qualified dental officer (Rule 22 (3)). Only one country did not report an intention of implementing Rule 22, but more than a quarter of the countries were unable to implement it fully for budgetary or economic reasons. Two countries also mentioned technical reasons and one country referred to a general shortage of medical personnel.

67. Rule 23 includes requirements that special arrangements be made for women prisoners to receive pre-natal and post-natal treatment, for children to be born outside prison whenever possible and for the provision of a nursery to be made available for infants who are allowed to remain in the institutions with their mothers. Adherence to Rule 23 was almost total, but nearly one third of the countries were unable to implement it fully. Budgetary and economic reasons were again dominant; two countries also mentioned technical reasons.

68. Rule 24 includes requirements in respect of the examination of prisoners with a view to their treatment, segregation if necessary, and the noting of physical or mental defects that might hamper their rehabilitation and their physical capacity for work. Over 80 per cent of the countries reported the full implementation of Rule 24. Budgetary, economic and technical reasons were given by countries unable to implement it fully. Two countries did not report an intention of implementing it.

69. Rule 25 requires that the medical officer shall daily see and care for sick prisoners and those who complain of or seem to be suffering from illness and shall report to the director if it seems that imprisonment has affected or

will affect a prisoner's health. Over 75 per cent of the countries reported full implementation of Rule 25. Budgetary and economic difficulties and the shortage of medical personnel were the main obstacles. Two countries did not report an intention of implementing it.

70. Rule 26 requires the medical officer to advise the director on matters associated with food, hygiene and cleanliness, sanitation, heating, lighting and ventilation, clothing and bedding and physical recreation. The director is required to respond to such advice. About 75 per cent of the countries reported the full implementation of Rule 26. Budgetary and economic difficulties and, in two cases, technical reasons were reported as obstacles. Two countries did not report an intention of implementing it.

Rules 27-32 (Discipline and punishment)

71. Rules 27-30 include the requirements that discipline and order shall be maintained with firmness but with no more restriction than necessary (Rule 27); that prisoners shall not be employed in a disciplinary capacity (Rule 28); that the definition of disciplinary offences, the types and division of punishments and the authority competent to impose punishment shall all be determined by law or by the competent administrative authority (Rule 29); that a prisoner shall only be punished in accordance with such law, after being informed of the offence, and after having had a proper opportunity of conducting his defence in the course of a thorough examination of the case by the competent authority (Rule 30).

72. In respect of each of Rules 27-30, some 85-90 per cent of the countries reported their full implementation. All the countries reported adherence to Rule 27 and only two did not indicate an intention of implementing Rules 28-30. The few countries in which the Rules were only partially implemented referred to budgetary, technical and legal difficulties as obstacles.

73. Rules 31-32 prohibit corporal punishment, the placing of a prisoner in a dark cell and all cruel, inhuman or degrading punishments (Rule 31); and require that punishment by close confinement or reduction of diet or any other punishment that may be prejudicial to the health of a prisoner shall be subject to close supervision in respect of the prisoner's health by the medical officer who shall advise the director if he considers the termination or alteration of the punishment necessary on health grounds (Rule 32).

74. Only about 75 per cent of the countries reported the full implementation of Rules 31 and 32. Three did not indicate an intention of implementing Rule 31, but all reported adherence to Rule 32. In respect of Rule 31, the seven countries that reported partial implementation and the three that reported non-implementation gave mainly legal and technical reasons. One country pointed out that such punishment was rarely awarded and then only for the infliction of severe physical injury; another country reported that confinement in a dark cell was used only for extreme bad conduct and that such treatment was in accordance with the prison regulations of that country. Budgetary and technical reasons were mentioned by the countries that reported their inability to implement Rule 32 fully.

Rules 33-34 (Instruments of restraint)

75. Rules 33-34 include the requirement that instruments of restraint shall never be applied as a punishment and specify the exceptional circumstances in which they may be used (Rule 33); and require that their use shall be decided

by the central prison administration and that they shall not be applied for longer than necessary (Rule 34). Over 90 per cent of the countries reported the full implementation of both Rules and the few that were only able to implement them partially mentioned budgetary and technical reasons. All the countries reported adherence to Rule 33 and all but two to Rule 34.

Rules 35-36 (Information to and complaints by prisoners)

76. Rule 35 includes the requirement that every prisoner on admission shall be provided in writing with the information necessary to enable him to understand both his rights and his obligations. Rule 36 includes requirements in respect of providing prisoners with proper opportunities of making requests or complaints and for having them dealt with and replied to without undue delay. All the countries reported adherence to Rule 35 but nearly a quarter were unable to implement it fully, giving mainly technical reasons for the discrepancy. Over 90 per cent of the countries reported full adherence to Rule 36. The two countries that reported partial implementation mentioned budgetary and technical reasons. One other country explained that a lack of resources and infrastructure were responsible for its inability to implement Rule 36.

Rules 37-39 (Contact with the outside world)

77. Rules 37-39 include the requirements that prisoners shall be allowed to communicate with their family and reputable friends at regular intervals (Rule 37); that foreign nationals shall be allowed to communicate with the official representatives of their States (Rule 38); and that prisoners shall be kept informed regularly of the more important items of news (Rule 39). All the countries reported adherence to these Rules and almost all reported full implementation. Economic reasons were given by three countries that were only able to implement Rule 39 partially.

Rule 40 (Books)

78. Rule 40 requires that every institution shall have an adequately stocked library and that prisoners shall be encouraged to make full use of it. All countries reported adherence to this Rule but nearly a quarter were unable to implement it fully, invariably for budgetary and economic reasons.

Rules 41-42 (Religion)

79. Rules 41-42 include requirements relating to the need for prisoners to have access to qualified representatives of their religion (Rule 41); and to enable prisoners as far as practicable to satisfy the needs of their religious life (Rule 42). All the countries reported adherence to these Rules. Over 80 per cent of them reported full implementation and in countries where this had not been achieved, legal, social, cultural and technical reasons were mentioned.

Rule 43 (Retention of prisoners' property)

80. Rule 43 includes requirements for the safekeeping and eventual return of all prisoners' property that under the regulations of the institution may not be retained during the period of imprisonment. All but two countries reported full implementation, one of them mentioned economic difficulties as an obstacle. The other did not indicate its intention of implementing the Rule.

Rule 44 (Notification of death, illness, transfer etc.)

81. Rule 44 includes requirements for the immediate notification of next of kin or other person previously designated by the prisoner in the case of his death, serious illness or removal to an institution for mental treatment, and for the immediate notification of the prisoner of the death or serious illness of any near relative. The Rule also requires that a prisoner shall have the right to notify his family at once of his imprisonment or transfer to another institution. All the countries reported adherence to this Rule and almost 90 per cent of them reported full implementation. The other countries mentioned economic, geographical, legal and technical difficulties as obstacles.

Rule 45 (Removal of prisoners)

82. Rule 45 includes requirements for the privacy of prisoners and the circumstances of transport during their removal to or from an institution. All the countries reported adherence to the Rule and all but two reported full implementation; economic and technical reasons were the main obstacles.

Rules 46-54 (Institutional personnel)

83. Rules 46-54 include requirements in respect of the selection and motivation of institutional personnel (Rule 46); their education and training (Rule 47); their conduct in the performance of their duties (Rule 48); the provision of specialists (Rule 49); the qualities, training and experience of the director and certain aspects of the performance of his duties (Rule 50); the capacity of institutional personnel to converse with prisoners in their own language (Rule 51); the ready availability of medical personnel (Rule 52); the employment of women officials in the case of women prisoners and the circumstances in which male members of staff may be present in the part of an institution set aside for women (Rule 53); and the use of force and the carrying of arms (Rule 54).

84. Almost all the countries reported adherence to all these Rules but there was considerable variation in the extent to which they were implemented. Rules 51 and 54 were reported as fully implemented by almost all the countries, but Rules 52 and 53 by only some 60 per cent and 75 per cent of the countries, respectively. The obstacles in respect of all the Rules concerning institutional personnel were budgetary, economic and technical.

Rule 55 (Inspection)

85. Rule 55 includes the requirement that there shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Over 85 per cent of the countries reported full implementation of this Rule. Economic and legal reasons were mentioned by countries unable to implement it fully. Only two countries did not report an intention of implementing this Rule.

Rules applicable to special categories

(a) Prisoners under sentence

Rules 56-64 (Guiding principles)

86. After Rule 56, which is an introductory paragraph, Rules 57-64 include requirements that the prison system shall not aggravate the suffering inherent

in a situation that deprives a person of his liberty (Rule 57); that the period of imprisonment shall be used as far as possible to prepare the prisoner for a law-abiding and self-supporting return to society (Rule 58); that to this end remedial, educational, moral, spiritual and other forms of assistance should be utilized and applied according to the individual treatment needs of prisoners (Rule 59); that differences between prison life and life at liberty should be minimized in so far as they tend to lessen the responsibility or self-respect of prisoners (Rule 60 (1)); that steps should be taken to ensure for the prisoner a gradual return to life in society (Rule 60 (2)); that the treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it (Rule 61); that medical services shall seek to detect and treat any illnesses or defects that may hamper a prisoner's rehabilitation (Rule 62); that there shall be individualization of treatment, classification of prisoners, varying degrees of security, numbers small enough in any institution to permit individualization of treatment but not so small that proper facilities cannot be provided (Rule 63); and that there should be agencies capable of lending the released prisoner efficient after-care (Rule 64).

87. All the countries reported their adherence to Rules 57-61 and 85-90 per cent of them reported the full implementation of them. The others mentioned economic difficulties as obstacles. Almost all the countries reported their adherence to Rules 62-64 but there were variations in their ability to implement them fully. Over 80 per cent of them reported the full implementation of Rule 62; the other 20 per cent referred to economic difficulties as obstacles. Less than 70 per cent, however, reported the full implementation of Rule 63. Again, budgetary and economic difficulties were the main obstacles but legal and technical difficulties were also mentioned by several countries. Similar reasons were given by countries reporting less than the full implementation of Rule 64. Almost 80 per cent of the countries, however, reported its full implementation.

Rules 65-66 (Treatment)

88. Rules 65-66 include requirements that the purpose of the treatment given to prisoners shall be to help them to lead law-abiding and self-supporting lives after their release and to encourage their self-respect and develop their sense of responsibility (Rule 65); and that to these ends a variety of means shall be used, and full reports prepared and conveniently filed on the individual needs of each prisoner (Rule 66).

89. All the countries reported adherence to these Rules: over 90 per cent of them reported full implementation of Rule 65 and over 75 per cent full implementation of Rule 66. Budgetary and technical difficulties were given as obstacles; two countries mentioned that overcrowding precluded the full implementation of Rule 66.

Rules 67-69 (Classification and individualization)

90. Rules 67-69 state the purposes of classification (Rule 67); require the separation as far as possible of different classes of prisoner for the purposes of treatment (Rule 68); and require that a programme of treatment shall be prepared for each prisoner in the light of his individual needs, capacities and dispositions (Rule 69). These three Rules were reported as fully implemented by 70-80 per cent of the countries. The reasons given for being unable to implement them fully were invariably budgetary, economic and technical. Two countries did not indicate an intention of implementing Rules 67 and 68.

Rule 70 (Privileges)

91. Rule 70 requires that systems of privileges shall be established at every institution. Almost 85 per cent of the countries reported full implementation. Two countries gave technical reasons for its partial implementation, while three countries indicated that they did not adhere to this Rule.

Rules 71-76 (Work)

92. Rules 71-76 include requirements in respect of the nature and purpose of prison work (Rule 71); the methods of work and its profitability (Rule 72); the operators of institutional industries and farms (Rules 73); health and safety precautions (Rule 74); the hours of work (Rule 75); and the system of remuneration (Rule 76).

93. About two thirds of the countries reported the full implementation of Rule 71 and almost one third reported partial implementation. Budgetary, economic and technical difficulties were given as obstacles; one country specifically mentioned the lack of tools. Several countries indicated that it was only one of the subsections of Rule 71 that they did not implement fully: usually either Rule 71 (2), which indicates that all physically and mentally fit prisoners shall be requested to work, or Rule 71 (3), which requires sufficient work of a useful nature to be provided to keep prisoners actively employed for a normal working day. One country did not indicate an intention of implementing this Rule.

94. About 80 per cent of the countries reported the full implementation of Rules 72 and 73; the other 20 per cent mentioned budgetary, economic and technical difficulties as obstacles. A similar percentage of the countries reported the full implementation of Rules 74 and 75 but in this case legal reasons were given as the explanation for the partial implementation. In respect of Rules 74 and 75, an intention of implementation was not indicated by two and three countries, respectively. Only two thirds of the countries reported the full implementation of Rule 76; budgetary reasons were invariably given as obstacles.

Rules 77-78 (Education and recreation)

95. Rules 77-78 include requirements that provision shall be made for the further education of all prisoners capable of profiting thereby (Rule 77); and that recreational and cultural activities shall be provided in all institutions (Rule 78). All the countries reported adherence to these Rules and between 80 and 90 per cent of them reported full implementation; budgetary and economic difficulties were mentioned by those countries whose implementation was only partial.

Rules 79-81 (Social relations and after-care)

96. Rules 79-81 include requirements concerning the maintenance and improvement of relations between a prisoner and his family (Rule 79); the maintenance or establishment of relations with persons or agencies that may promote the best interests of his family and his own social rehabilitation (Rule 80); and the provision on his release from prison of suitable documentation, accommodation, employment, clothing and sufficient means (Rule 81 (1)).

97. All the countries reported adherence to Rules 79 and 80, and 90 per cent of the countries reported full implementation; economic, geographical and legal reasons were given as obstacles by 10 per cent of the countries. Only 75 per cent of the countries reported the full implementation of Rule 81. Three countries did not report an intention of implementing this Rule.

(b) Insane and mentally abnormal prisoners

Rules 82-83

98. Rules 82-83 require that insane prisoners shall not be detained in prisons and that other mentally abnormal prisoners shall be observed, treated and supervised under medical management (Rule 82); and that steps should be taken where possible to arrange for the continuation of psychiatric treatment and specialized after-care following release (Rule 83). Almost all the countries reported adherence to these Rules but only about 75 per cent reported full implementation. Budgetary and economic difficulties were mentioned as obstacles to full implementation; some countries also mentioned legal reasons.

(c) Prisoners under arrest or awaiting trial

Rules 84-93

99. Rules 84-93 include the requirements that unconvicted prisoners shall be presumed and treated as innocent and that untried prisoners shall benefit from a special régime (Rule 84); that they shall be kept separate from convicted prisoners, and that young untried prisoners shall be kept separate from adults and shall in principle be detained in separate institutions (Rule 85); that, subject to local custom in respect of the climate, untried prisoners shall sleep singly in separate rooms (Rule 86); that within certain limits they may have their food procured at their own expense from outside the prison (Rule 87); that they shall wear their own clothing or clothing different from that of convicted prisoners (Rule 88); that they shall be offered the opportunity of working but shall not be required to work (Rule 89); that they may acquire books, newspapers, writing materials etc. at their own expense (Rule 90); that they may, subject to certain conditions, be visited and treated by their own doctor or dentist (Rule 91); that they may inform their families immediately of their detention and, subject to certain conditions, that they may communicate with, and receive visits from, their families and friends (Rule 92); and that appropriate arrangements shall be made for them to receive legal advice and, where available, free legal aid (Rule 93).

100. Over 80 per cent of the countries reported the full implementation of Rule 84; the reasons for partial implementation were budgetary, economic and technical and a lack of infrastructure. Rule 85 was fully implemented by only about half of the countries, and four countries did not indicate their adherence to the Rule. Budgetary, economic and technical difficulties and the lack of infrastructure were again mentioned obstacles.

101. While over half of the countries reported the full implementation of Rule 85 (and of Rules 87-93), only a quarter reported the full implementation of Rule 86, which reveals a different pattern of responses to those in respect of all the other Rules. A further quarter of the countries reported only partial implementation of Rule 86 and another quarter reported recognition of the Rule in principle. As many as six countries did not indicate an intention of implementing this Rule, almost all of them pointing to budgetary or economic factors as the main obstacle.

102. About three quarters of the countries reported the full implementation of Rules 87-88. The other countries mentioned legal and technical reasons as obstacles. A similar proportion reported the full implementation of Rule 89; budgetary and economic difficulties were as important as legal and technical ones in the explanation of partial implementation by the other countries. Rule 90 was reported as fully implemented by over 90 per cent of the countries; 10 per cent gave budgetary and technical difficulties as obstacles.

103. Seven countries reported that Rule 91 was inapplicable. It was fully implemented, however, in two thirds of the other countries. Legal and social difficulties were mentioned as obstacles. About 85 per cent of the countries reported the full implementation of Rules 92 and 93; partial implementation was attributed to budgetary, technical and legal reasons.

(d) Civil prisoners

Rule 94

104. Rule 94 requires that prisoners imprisoned for debt or under any non-criminal court order shall be subjected to conditions no less favourable than untried prisoners except that they may be required to work. Almost half of the countries reported that, in their countries, this Rule was not applicable as their national laws did not permit such imprisonment. Almost all the other countries reported the full implementation of the Rule.

(e) Persons arrested or imprisoned without charge

Rule 95

105. Rule 95 requires that persons arrested or imprisoned without charge shall be accorded the same protection as prisoners under sentence and prisoners under arrest or awaiting trial. Almost 50 per cent of the countries indicated that this Rule was not applicable to their prison systems since they did not have such a special category of prisoners. A further 35 per cent reported the full implementation of the Rule; economical, legal, social and technical difficulties were mentioned by the other countries as obstacles. Two countries did not indicate an intention of implementing this Rule.

IV. FUTURE ACTION

A. Ways of ensuring more effective implementation of the Rules

106. Some replies to the survey offered suggestions for promoting implementation at the national, regional and international level. The importance of carrying out national reviews or revisions of existing penal codes, providing greater resources and improving training for prison staff was underlined. At the regional level, it was proposed that formal networks should be established to facilitate the dissemination of information and the co-ordination of strategy and practice. At the international level, major international conferences were considered to be valuable forums for reviewing implementation and examining good practices. It was suggested that an international body to inspect prisons and to offer advice should be created.

107. The results of the present survey are in some respects reassuring. The strong support for the Rules, which was expressed in the replies of all the countries, and the care and effort that had clearly been devoted to the preparation of the replies, demonstrate a high level of commitment to the

objectives of the Rules. Furthermore, some progress is noticeable concerning exercise and sport, medical services, classification and individualization, as well as social relations and after-care.

108. Despite these positive features, however, there are still serious grounds for concern. For example, less than one third of the Member States replied to the survey, which means that the picture presented by the present report is still incomplete, a quarter of a century after the adoption of the Rules by the First Congress. While 18 countries that did not participate in the previous survey replied this time, 27 countries that had replied to the previous survey did not participate this time; the reliability of comparisons between the two surveys is consequently reduced so that there can be no certainty that progress is being made either consistently or in each country. Furthermore, over one third of the entire membership of the United Nations has never provided any reply on the implementation of the Rules.

109. Another factor that makes it difficult to measure progress between the surveys is the possibility that the Governments' perceptions of their performance in implementing the Rules may not be shared by other observers and that some of those completing the replies may be using slightly different criteria from the others. In fact, there was evidence that some countries were adopting a more stringent definition of what constituted full implementation. Thus an unbiased observer might have concluded that one country reporting partial implementation of a particular Rule had in fact implemented that Rule more fully than another country that reported full implementation. Such inconsistency reduces the extent to which the survey is a true mirror of international practice.

B. Recommendations for future surveys

110. In the light of the experience with the present and past surveys and the suggestions of some Governments, the Eighth Congress may wish to make the following recommendations with respect to future surveys:

(a) The role of the Committee on Crime Prevention and Control should be strengthened to enable it to function as the monitoring body for the Standard Minimum Rules and to assist the General Assembly, the Economic and Social Council and other United Nations bodies with recommendations on the application of the Rules in accordance with the Procedures for the Effective Implementation of the Rules;

(b) Arrangements should be made to enable countries to be referred to for the purposes of clarifying any replies where there could be uncertainty in interpretation. National correspondents may be the appropriate points of reference, but contacts will often be needed with the person directly responsible for the reply and with the prison authorities, through ministries, in accordance with the Procedures for the Effective Implementation of the Rules;

(c) Consideration should be given to ways of ensuring that the replies are consistent and reliable.* This goal will be partly achieved if Governments can make their explanations of the extent to which they implement the Rules

*See, also, the working paper prepared by the Secretariat on United Nations norms and guidelines in crime prevention and criminal justice: implementation and priorities for further standard-setting (A/CONF.144/18).

more intelligible. It would also help invaluablely if independent observers were invited to assist in the interpretation of the replies when they have been received;

(d) Member States should be encouraged to make all efforts to implement the Rules and to contribute to the quinquennial surveys, in accordance with General Assembly resolutions 2858 (XXVI) and 3144 B (XXVIII). It may be recalled that the First Congress, having adopted the Rules, had expressed the hope that

"the United Nations would provide technical assistance to those Governments requesting it, either in the form of sending experts needed or by helping in the establishment of institutions for the training of personnel or by the organization of seminars or by the publication of guides or handbooks to facilitate the application of the Standard Minimum Rules and the training of personnel." 2/

(e) A small group of experts could be established and charged with the task of improving the quality of the surveys. The group should be able to do further work, if necessary, on the analysis of the replies to past surveys, thus paving the way for the consideration of priority areas for closer study in the next survey. The group should be established as soon as possible, in view of the amount of work to be done before the request for information for the next survey is sent to Governments in 1993.

Notes

1/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August to 6 September 1985 (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.

2/ First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August to 3 September 1955 (United Nations publication, Sales No. 1956.IV.4), chap. II, sect. F.