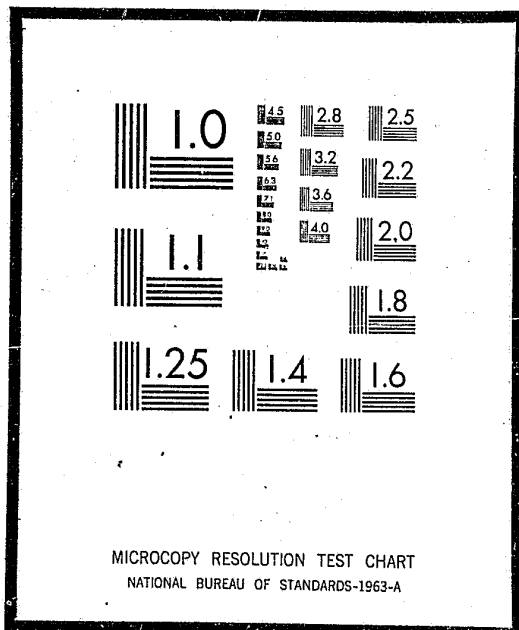


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United Nations -)
 SECOND MEETING OF THE WORKING GROUP OF EXPERTS
 ON THE
 STANDARD MINIMUM RULES FOR TREATMENT OF PRISONERS, 2D -)

Columbus, Ohio, U.S.A. November 18-22, 1974 -)

SELECTED BACKGROUND MATERIALS

FOR
AGENDA ITEM FIVE

(Formulation of Report to the Fifth United Nations Congress)

Resolution of the First United Nations
Congress Approving the Standard Minimum Rules

Resolution adopted on 30 August 1955

*The First United Nations Congress on the Prevention of Crime
and the Treatment of Offenders,*

*Having adopted the Standard Minimum Rules for the Treatment
of Prisoners annexed to the present Resolution,*

1. *Requests* the Secretary-General, in accordance with para-
graph (d) of the annex to resolution 415(V) of the General Assembly
of the United Nations, to submit these rules to the Social Com-
mission of the Economic and Social Council for approval;

2. *Expresses* the hope that these rules be approved by the
Economic and Social Council and, if deemed appropriate by the
Council, by the General Assembly, and that they be transmitted
to governments with the recommendation (a) that favourable
consideration be given to their adoption and application in the
administration of penal institutions, and (b) that the Secretary-
General be informed every three years of the progress made with
regard to their application;

3. *Expresses* the wish that, in order to allow governments to
keep themselves informed of the progress made in this respect,
the Secretary-General be requested to publish in the International
Review of Criminal Policy the information sent by governments
in pursuance of paragraph 2, and that he be authorized to ask
for supplementary information if necessary;

4. *Expresses* also the wish that the Secretary-General be re-
quested to arrange that the widest possible publicity be given to
these rules.

Initial Resolution of the Economic and
Social Council Approving the
Standard Minimum Rules

663 (XXIV). World social situation.

C

RECOMMENDATIONS OF THE FIRST UNITED NATIONS
CONGRESS ON THE PREVENTION OF CRIME AND THE
TREATMENT OF OFFENDERS

I

The Economic and Social Council

1. *Approves 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;*³⁷

2. *Draws the attention of Governments to those
Rules and recommends:*

(a) That favourable consideration be given to their
adoption and application in the administration of penal
and correctional institutions;

(b) That the Secretary-General be informed every
five years of the progress made with regard to their
application;

(c) That Governments arrange for the widest possible
publicity to be given to the *Rules*, not only among govern-
mental services concerned but also among non-govern-
mental organizations interested in social defence;

3. *Authorizes* the Secretary-General to make arrange-
ments for the publication, as appropriate, of the informa-
tion received in pursuance of sub-paragraph 2 (b) above
and to ask for supplementary information if necessary.

*994th plenary meeting,
31 July 1957.*



**FOURTH
UNITED NATIONS CONGRESS
ON THE
PREVENTION OF CRIME
AND THE
TREATMENT OF OFFENDERS**

Kyoto, Japan, 17-26 August 1970

Report prepared by the Secretariat

C. REPORT ON AGENDA ITEM (3): THE STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS IN THE LIGHT OF RECENT DEVELOPMENTS IN THE CORRECTIONAL FIELD

6. CONCLUSIONS

197. It was decided that no formal resolutions or recommendations concerning the Standard Minimum Rules would be submitted. Certain key concepts, however, emerged from the preparatory work as a whole and from the Congress discussions:

(a) The problem of the Standard Minimum Rules has elicited sustained attention and has given rise to important comment at the highest level. The problems remain very acute and continue to give rise to increasingly difficult questions, because of their human and social implications;

(b) A programme of persuasion and action was recommended to promote the spirit of the Rules and training in the specific methods required for their implementation.

198. In order to respond to the clear wishes expressed, it was suggested that the following steps should be taken:

(1) The General Assembly of the United Nations should adopt a resolution approving the Standard Minimum Rules and recommending their implementation to Member States;

(2) The Economic and Social Council and the Secretary-General of the United Nations should immediately take the necessary steps to encourage scientific research and develop technical assistance, and should provide the United Nations social defence programme with the means needed to promote such implementation, in particular, by establishing a working group of specially qualified experts to study the numerous complex problems relating to the Rules;

(3) The working group should: (a) undertake an international evaluation of needs, means and results, relating to the implementation of the Rules; (b) devise a system that would ensure that the information periodically requested from Member States or voluntarily submitted by non-member States should be pertinent and quantitatively and qualitatively comparable; (c) consider the desirability of dividing the Standard Minimum Rules into a general part, containing a more refined statement of the basic principles which might form an international convention; and a special part, devoted to the technical questions relating to treatment, to which amendments and additions could be made in the light of favourable experience; (d) study all the implications of a possible future "internationalization" of the various types of remedies open to persons detained who claim that they have not received the benefits of the guarantees laid down in the Rules; (e) undertake the amendment proposed above, in particular, to ensure the application of the Rules to all prisoners, regardless of whether they are charged with, or convicted of, crime.

199. The next United Nations Congress should receive a report on the action taken on those conclusions. If it is not possible to submit a report to the plenary session of the Fifth Congress, such a report should be submitted to the working party, the setting-up of which is strongly recommended.



**UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL**



Distr.
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E/AC.57/8
28 February 1973

ORIGINAL: ENGLISH

COMMITTEE ON CRIME PREVENTION
AND CONTROL
Second session
14-25 May 1973

REPORT OF THE SECRETARY-GENERAL ON THE MEETING OF THE WORKING GROUP OF EXPERTS ON THE STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS, HELD AT UNITED NATIONS HEADQUARTERS, FROM 25 TO 29 SEPTEMBER 1972

V. SUMMARY

58. The Working Group on the Standard Minimum Rules for the Treatment of Prisoners addressed itself to a wide range of issues. In line with the terms of reference set down by the Fourth United Nations Congress on the Prevention of Crime and Treatment of Offenders, ^{7/} it examined questions relating to the extent to which the Rules were currently applied; the need for a more effective system of reporting on the implementation of the Rules; the areas in which the Rules were currently deficient or outdated; and the ways in which the scope of the Rules might be enlarged to include persons in custody other than prisoners.

59. At the outset, the Group concluded that high priority had to be given to the use of measures which would promote the adoption of the Rules by countries which had not done so; in addition, the fuller implementation of the Rules should be vigorously pursued in countries which had made a start in applying them. To that end, the United Nations should make greater efforts to propagate the Rules, collect data and provide more facilities for information and education on the Rules.

60. One approach which was strongly endorsed by the Group was the development of a commentary on the Rules which would furnish guidelines to Governments faced with the problem of deciding how the Rules might be given fuller effect. In this

^{7/} See foot-note 1.

regard, the services of a consultant have been engaged to prepare a draft of the commentary. It was also concluded that ways should be found to enlist the efforts of various United Nations bodies in promoting an understanding of the Rules and their relevance to the needs of countries engaged in strengthening their systems of administration of justice. The implications of this for the technical assistance programmes of the United Nations could not be too strongly emphasized. Many developing countries needed practical aid and resources to implement their support for the Rules.

61. The Group recognized that some of the Rules, especially those dealing with methods of treatment, might require revision over a period of time; but it was decided that amendment of the existing Rules at that time would be inadvisable. The Group believed that there must be a continuing effort to collect and assess information which would provide a better understanding of the difficulties in implementing the Rules, as well as information required to support adoption of new or more substantial formulations. The recognition of that need pointed to the importance of the task of continuously reviewing the Rules in the light of changing conditions.

62. The Group also took into account the close relationship existing between the Standard Minimum Rules and other United Nations instruments relating to human rights. Because of that relationship, the Group welcomed the close working arrangements developed over the previous year between the staff of the Division of Human Rights and the Crime Prevention and Criminal Justice Branch of the Centre for Social and Humanitarian Matters and looked forward to its continuation.

VI. RECOMMENDATIONS

63. On the basis of the Group's recommendations, consideration should be given to the following:

(a) Wider dissemination of the Rules using all appropriate channels of communication which exist, especially within the United Nations;

(b) In this connexion small and easily understandable brochures should be prepared describing the Rules and stressing their importance and the present printing of the Rules should be reset with a shorter title and more interesting cover;

(c) Attention should be given to the creation of a new system for collection of information concerning the application of the Rules;

(d) Continuing efforts should be made to conduct studies and assemble specific data on the difficulties encountered in applying the Rules; the portions of the Rules which may be outmoded; and the matters which might be the subject of new Rules or additions to existing Rules;

(e) Work should be undertaken on a Commentary on the Rules and a new introduction to the Rules drafted;

(f) The preparation of working papers on the outstanding matters discussed by the Group and which reflect the possible need for new Rules or additions should be initiated;

(g) A working paper dealing with issues related to the application of the Rules to categories of persons not presently covered should be prepared;

(h) The existing close co-operation between the crime prevention programmes and the Division of Human Rights should be continued and strengthened. In particular, joint regional or interregional seminars on the subject of the Rules should be promoted under General Assembly resolution 926 (X);

(i) Efforts should be made to obtain from the appropriate specialized agencies of the United Nations advice and suggestions about ways in which the Rules might be strengthened;

(j) Similar inquiries should be addressed to appropriate intergovernmental and non-governmental organizations.

64. The Committee on Crime Prevention and Control may wish to undertake the continuing task of keeping the Standard Minimum Rules and their implementation under periodic review and appraisal.

First General Assembly Resolution

Document Numbers:

Report to Assembly: Third Committee report A/8588
Resolution Adopted: 2858 (XXVI) - 20 December 1971

TEXT

The General Assembly,

Recalling articles 5, 10 and 11 of the Universal Declaration of Human Rights,

Recalling Economic and Social Council resolution 663 C (XXIV) of 31 July 1957, which approved the Standard Minimum Rules for the Treatment of Prisoners,

Convinced of the need for further concerted action in promoting respect for and implementation of the principles embodied in the aforementioned articles of the Universal Declaration of Human Rights,

1. Solemnly reaffirms the principles concerning human rights in the administration of justice as embodied in articles 5, 10 and 11 of the Universal Declaration of Human Rights, namely, those referring to the right to be subjected only to humane treatment or punishment, the right to a fair and public hearing by an independent and impartial tribunal in any civil or criminal proceedings, the right, if charged with a penal offence, to be presumed innocent until proved guilty and the right not to be subjected to retrospective criminal sanctions;

2. Invites the attention of Member States to the Standard Minimum Rules for the Treatment of Prisoners and recommends that they shall be effectively implemented in the administration of penal and correctional institutions and that favourable consideration shall be given to their incorporation in national legislation;

3. Takes note with satisfaction of the establishment of a working group of experts within the work programme of the Commission for Social Development to advise on methods of strengthening the implementation of the Standard Minimum Rules for the Treatment of Prisoners and reporting procedures thereon;

4. Endorses the recommendation contained in Economic and Social Council resolution 1594 (L) of 21 May 1971 that the Commission on Human Rights should at its twenty-eighth session, examine the draft principles relating to equality in the administration of justice adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and take a decision on further action;

5. Expresses the hope that the Economic and Social Council at its fifty-second session will be able to consider final proposals of the Commission on these principles.

Second General Assembly Resolution

Document Numbers:

Report to Assembly: Third Committee Report A/8588
Resolution Adopted: 3144 (XXVIII) - 14 December 1973

TEXT

The General Assembly,

Noting with satisfaction that the Working Group of Experts on the Standard Minimum Rules for the Treatment of Offenders recommended that attention should be given to their further dissemination and effective implementation;

Noting also that the treatment of offenders in custody will be considered by the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, with special reference to the Standard Minimum Rules,

1. Recommends that Member States should make all possible efforts to implement the Standard Minimum Rules for the Treatment of Offenders in the administration of penal and correctional institutions and take the Rules into account in the framing of national legislation,

2. Requests the Secretary-General, in preparing the report on the situation of crime prevention and control requested by the General Assembly in paragraph 4 of its resolution 3021 (XXVII) of 18 December 1973, and to be presented to the Assembly at the thirty-first session, to take particularly into account the current application of the Rules and to make suggestions about the measures needed to ensure their most effective implementation.

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.5/494
E/AC.57/14
22 October 1973

ORIGINAL: ENGLISH

COMMISSION FOR SOCIAL DEVELOPMENT
Twenty-fourth session

[Excerpt]

REPORT OF THE COMMITTEE ON CRIME PREVENTION AND CONTROL
ON ITS SECOND SESSION

held at United Nations Headquarters
from 14 to 23 May 1973

III. REPORT OF THE SECRETARY-GENERAL ON THE MEETING OF THE
WORKING GROUP OF EXPERTS ON THE STANDARD MINIMUM RULES
FOR THE TREATMENT OF PRISONERS

37. The discussion on the report of the Secretary-General on the meeting of the Working Group on the Standard Minimum Rules for the Treatment of Prisoners (E/AC.57/8) ranged widely over the problem of presenting the Rules adequately and ensuring their more effective implementation. The Committee endorsed the Working Group's recommendations that there should be no convention on or any substantive change in the Rules for the time being and that attention should be given to their presentation and implementation.
38. The Committee was concerned, however, about the accumulating evidence that prisoners throughout the world were living in conditions as yet far removed from the aspirations reflected in the Rules and the need for prisoners to have effective channels for the redress of grievances. More vigorous efforts should be made to implement the Rules. On the other hand, the view was expressed that many of the overcrowded prisons in the world were the result of other defects in the criminal justice systems which the Rules themselves could not hope to eradicate. More fundamental reforms were required to divert offenders from the prisons.
39. The representative of the Council of Europe described his organization's study of the Rules with the recommended changes. He also mentioned the number of individual cases of alleged violations of human rights in prisons, which had been the subject of appeal to the Council of Europe.
40. In more detail, the Committee sought more effective machinery for following up the Rules. One suggestion was that greater use might be made of the national correspondents. Another referred to the help being given by interregional advisers. Both approaches were supported by the Committee. Reservations were expressed to the writing of commentaries; at the same time, it was hoped they would in no way reduce the flexibility of the Rules. A reservation was also expressed to the extension of the Rules to other categories of persons. It was explained that the Working Group had felt unable to ignore the fate of persons held in detention for political reasons or in circumstances which, because they were not technically "prisoners", did not entitle them to the minimum standards envisaged in the Rules. As to commentaries, much depended upon how these were construed; it was appreciated that, for example, the Rules in a better form of presentation would require a special introduction. The need for high officials and legislators to be made aware of the Rules was stressed, and an example was given of Parliament in one country having been alerted to the Rules by the holding of a United Nations Congress in the country, at which the Rules were an item on the agenda.

Extract from First Draft of Working Paper on Agenda Item
4 of Fifth United Nations Congress on the Prevention
of Crime and Treatment of Offenders

TABLE OF CONTENTS

Page

PART II - THE STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS	
IV - THE RULES IN THE CLIMATE OF CHANGE	
A. A Perspective on the Rules	
113. The Search for Principles and Standards	13
114. Leadership of International Penal and Penitentiary Commission	13
115. Adoption of Standard Minimum Rules at First UN Congress (1955)	13
116. Consideration of Rules by Fourth UN Congress (1970)	13
117. General Assembly Action on Rules (1971)	14
B. Progress Toward The Implementation of the Rules and Related Matters	
1. The Working Group of Experts on the Standard Minimum Rules	
118. Establishment of Working Group of Experts	14
119. First Meeting of Working Group	14
120. Issues Examined at First Meeting	14
121. Conclusions of First Meeting	14
122. Greater Dissemination of Rules	15
123. Commentaries on Rules	15
124. Potential Commentary on Rule 7--Register on Persons Imprisoned	15
125. Potential Commentary on Rule 8--Separation of Categories of Prisoners	15
126. Potential Commentary on Rules 23 & 24 - Medical Services	15
127. Potential Commentary on Rule 28 - Discipline and Punishment	15
128. Potential Commentary on Rules 35 & 36 -- Prisoner Complaints	16
129. Potential Commentaries on Rules Applicable to Special Categories	16
130. Potential Commentary on Rule 67 - Classification and Separation	16
131. Potential Commentary on Rules 71-76 -- Prison Labour	16
132. Potential Commentary on Rule 77 - Education	16
133. Overall Value of Commentaries in Adopting Rules to Changing Conditions	17
134. Consideration of Possible Additions to Rules	17
135. Conclusion Against Hasty Changes or Additions to Substantive Rules	17
136. Possible Division of Rules into General and Special Parts with International Convention on General Part	17
137. Periodic Review and Appraisal of Rules	17
138. Review and Reservations on Working Group Report by Committee on Crime Prevention and Control	18
139. Reaction of General Assembly	18
2. The Survey By The Secretary-General on The Implementation of the Rules	
140. Transmittal of 1974 Questionnaire	18

Page

141. Results of Earlier 1967 Survey	18
142. Purposes of 1974 Survey	18
143. Structure and Content of 1974 Survey	19
C. The Future of the Standard Minimum Rules For The Treatment of Prisoners	
144. Need for More Effective Implementation and Incorporation into Penal Law and Regulation	19
145. Recommendation Against Major Revision of The Rules	19
146. Need for Continuing Review of Rules	19
147. Development of New Rules for Persons Detained Other Than Those Covered Under Standard Minimum Rules	19
148. Adoption of Annexes to the Rules	20
149. Development of New Rules for Offenders under Community Supervision and Care	20
150. Citizen Involvement in Correctional Programs	20
151. Loss of Rights	20
152. Treatment of Those Imprisoned	21
153. Responsibilities of Prisoners	21
D. The Rules and The Prison of the Future	
154. Rules in Light of Diminished Use of Prisons	21
155. Rules 6-65	21
156. Rules 56-64	21
157. Rules 65-81	22
158. Rules with Coercive Implications	22
159. Right to Reject Treatment	22
Summary and Conclusion	
160. Existing Rules Do Not Require Significant Modification	22
161. Affirmative Action for Wider Dissemination and Application of Rules	22
162. Impact of Certain Trends on Prison Systems	23
163. Debate over Utility, Role and Nature of Prisons	23
164. More Effective Implementation of Present Rules and Elaboration of New Sets of Rules	23
165. Relationships with UN Commission on Human Rights	23
166. Possible Areas to be Addressed by New Sets of Rules	23
167. Responsibility of Fifth Congress to Maintain Relevance of Rules and Respond to Changes in Penal Developments and Practice.	24

NOTE

Agenda Item 4 of the Fifth United Nations Congress on Prevention of Crime and Treatment of Offenders (Toronto, Canada--September 1975), as recently amended by the Committee on Crime Prevention and Control (October 1974) now reads:

"4. The treatment of offenders in custody or in the community with special reference to the implementation of the United Nations Standard Minimum Rules for the Treatment of Prisoners."

PART II - THE STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS

IV THE RULES IN THE CLIMATE OF CHANGE

A. A Perspective on the Rules

113. The Search for Principles and Standards. Throughout the history of prisons in the world there has been a long-standing search for the articulation of principles or standards to guide their operation and management. At the very outset there was a prolonged debate between the protagonists of a system of cellular isolation and those who argued for a system of congregate work of prisoners. A little more than a hundred years ago (1870), the work of a small group of reformers in the United States resulted in a Declaration of Principles which emphasized the responsibility of society for the reformation of criminals, noted that education, religion and industrial training are valuable aids in this undertaking, that prison discipline should build the self-respect of each prisoner, that his co-operation might best be obtained through the use of an indeterminate sentence under which his discharge was regulated by a merit system.

114. Leadership of International Penal and Penitentiary Commission. The meeting at which the Declaration was adopted was the forerunner to the first International Penal and Penitentiary Congress convened in London in 1972. This meeting gave rise to the organization of the International Penal and Penitentiary Commission (IPPC), which provided international leadership in prison reform for nearly 80 years. During most of its existence the Commission was preoccupied with the formulation of standards for the care of prisoners and it was responsible for the formulation of the first international Rules for the Treatment of Prison Inmates.

115. Adoption of Standard Minimum Rules at First UN Congress (1955). At the London Conference in 1872, a statement of principles of prison reform was adopted which established the foundations for what later were to become the Standard Minimum Rules, and for the ensuing half-century, the deliberations of later Congresses concerned themselves in large part with a search for standards. The outcome of these discussions was the promulgation by the IPPC in 1926 of the first statement of the Rules. Revision followed in 1933, and in 1951. Prior to the transfer of the functions of the IPPC to the United Nations, an early recommendation of the Ad Hoc Committee of Experts, meeting in 1949, was that the Social Commission should undertake a further revision of the Rules using the IPPC document, then in preparation as a working paper. In 1955 the First United Nations Congress on Crime adopted the current formulation of the Rules. Two years later, by resolution 663 C (XXIV), 31 July 1957, the Economic and Social Council invited Governments to give favorable consideration to the adoption and application of the Rules in the operation and administration of their penal and correctional institutions.

116. Consideration of Rules by Fourth UN Congress (1970). Problems related to the implementation of the SMR were discussed at considerable length at the meeting of the United Nations Consultative Group meeting in

Geneva in 1968. At the Fourth United Nations Congress on Prevention of Crime and Treatment of Offenders held in Kyoto, Japan, in 1970, the SMR were given further attention and it was recommended that the General Assembly should approve and recommend the implementation of the Rules by Member States; that the United Nations social defence program be given the means to undertake research and develop technical assistance for promotion of the Rules; that a working party be established which would undertake an international evaluation of the needs, means, and results, through periodic inquiries addressed to Member States with regard to the SMR, and report to the Fifth United Nations Congress on the action taken.

117. General Assembly Action on Rules (1971). On 20 December 1971, the General Assembly of the United Nations, in resolution 2858 (XXVI), invited the attention of Member States to the Standard Minimum Rules for the Treatment of Prisoners and recommended their effective implementation in the administration of penal and correctional institutions and that favorable consideration be given to their incorporation in national legislation. The General Assembly also noted with satisfaction the establishment within the Commission for Social Development of the Working Group on the Standard Minimum Rules for the Treatment of Prisoners.

B. PROGRESS TOWARD THE IMPLEMENTATION OF THE RULES AND RELATED MATTERS

1. The Working Group of Experts on the Standard Minimum Rules

118. Establishment of Working Group of Experts. As recommended by the Fourth United Nations Congress on the Prevention of Crime and Treatment of Offenders, and in accordance with the recommendations of the Commission for Social Development, the Economic and Social Council in its resolution 1583 (L) approved the Commission's program of work which, in project 21, called for the convening of a working group to advise on methods of strengthening the implementation of the Standard Minimum Rules.

119. First Meeting of Working Group (1972). The first meeting of the Working Group on the Standard Minimum Rules was held at United Nations Headquarters from 25-29 September 1972.

120. Issues Examined at First Meeting. In line with the terms of reference set down by the Fourth United Nations Congress, the Group examined matters relating to: the extent to which the Rules are currently being applied; the need for a more effective system of reporting upon their implementation; the areas in which the Rules may be deficient or outdated; and the ways in which the scope of the Rules might be enlarged.

121. Conclusions of First Meeting. It was the consensus of the Group that more important than the amendment or the expansion of the Rules is the need to provide specific guidelines and other assistance to countries which are interested in placing the Rules in force. It was agreed that an approach which should be taken would be to prepare a new introduction to the Rules and an interpretative commentary on each of the Rules which might incor-

porate suggested guidelines for their implementation. Since the commentaries will not have the force of Rules, they would provide a quality of flexibility and be capable of revision in the light of the experience of Member States in adapting the Rules to changing conditions.

122. Greater Dissemination of Rules. The Group also proposed the writing of a short, easily understandable brochure which would describe the Rules and emphasize their importance. It recommended that when the Rules were reprinted, attention be given to presenting them in a more attractive format. The Group also emphasized the importance of assuring wider dissemination using all appropriate channels of communication and especially those available within the United Nations.

123. Commentaries on Rules. There are a number of instances, some of which were brought to the attention of the Working Group, where the preparation of commentaries might suggest ways in which the Rules might be applied in the light of changing conditions without doing violence either to the spirit or intent of those who were responsible for their formulation and adoption.

124. Potential Commentary on Rule 7--Register on Persons Imprisoned. It is, for example, the clear intent of Rule 7 of the Rules of General Application that accurate records be maintained on persons who are imprisoned or detained. The obvious purpose of the Rule is the prevention of illegal or irregular confinement of persons. Whilst the Rules require that the names of prisoners be recorded in a bound registration book with numbered pages, the commentary might well suggest alternative and appropriate methods which might be employed to accomplish the same objective.

125. Potential Commentary on Rule 8--Separation of Categories of Prisoners. A commentary on the provisions of Rule 8, which is concerned with the separation of categories of prisoners, might well address itself to the growing practice of establishing co-correctional institutions in which both sexes are housed on a segregated basis but participate, in many instances, on a co-educational basis in approved and appropriate institutional programs and activities.

126. Potential Commentary on Rules 23 & 24 - Medical Services. A commentary might also deal with the desirability of the use of community hospitals for the confinement of pregnant women prisoners and for the appropriate placement in the community of the infant children of such women. It would also appear appropriate to discuss the continuing contact of all prisoners, either directly or through prison medical services, with medical services under whose care the prisoner had been prior to his imprisonment. These observations would relate to the present provisions of Rules 23 and 24.

127. Potential Commentary on Rule 28 - Discipline and Punishment. While Rule 28 prohibits the practice of granting a prisoner disciplinary authority over other prisoners, a commentary might make it clear that the Rule does not mitigate against prisoners being given responsibility in such areas as the organization and execution of the institutional work program, where in-

mates might exercise supervision over the work of others without authority to punish or impose disciplinary measures.

128. Potential Commentary on Rules 35 & 36 -- Prisoner Complaints. A carefully prepared commentary might also address itself to suggesting the methods which might be considered to provide effective resolution of inmate grievances. Rules 35 and 36 address themselves to matters concerning the right of prisoners to be informed of the rules and regulations of the institution and to transmit complaints to competent authorities. Paragraphs 45 through 49, above, suggest that there are a number of approaches which have been adopted in different countries to provide administrative remedies. A more comprehensive description of these approaches might be of particular value to countries which desire to establish more responsive legal or administrative machinery for grievance resolution.

129. Potential Commentaries on Rules Applicable to Special Categories. The preparation of commentaries might also serve well to clarify the intent of a number of the Rules Applicable to Special Categories, Rules 56-94, inclusive.

130. Potential Commentary on Rule 67 - Classification and Separation. While the Rules regarding classification and individualization have as their desirable objective minimizing the contamination of the less sophisticated prisoner by others who might exercise a bad influence over him, there has been a tendency in many countries to be concerned largely with the segregation of the younger and to maintain a rigid segregation of the sexes. There appear to be sound reasons to re-examine the assumptions underlying the categorical separation of prisoners and to explore alternatives to traditionally accepted measures. As suggested in paragraph 125, the experience in some countries which have established co-correctional institutions deserves special attention.

131. Potential Commentary on Rules 71-76 -- Prison Labour. Rules 71-76, inclusive, address themselves to a wide range of issues regarding prison labour. Again, without detracting from the force or the intent of these Rules, commentaries might be employed to examine approaches which have been taken in different countries to such issues as the establishment of minimum wage levels for inmate workers and the involvement of inmate labour unions in negotiations concerning conditions of work. Other issues which might be examined in this context concern the administration and control of prison industries. Rule 73 (1) indicates that it is preferable that institutional industries and farms not be operated by private contractors. The experience of such countries as Japan and of other countries which have provided high levels of institutional employment through contractual relationships with free enterprise may well deserve comment.

132. Potential Commentary on Rule 77 - Education. While Rule 77 (2) recommends that in so far as practicable, the education of prisoners shall be "integrated with the educational system of the country", they do not speak to the participation of inmates in extramural educational programs. The use of such resources in countries which have adopted programs of inmate

work and educational release might, if discussed in the commentaries, be instructive and helpful to countries who wish to consider the implementation of similar activities.

133. Overall Value of Commentaries in Adapting Rules to Changing Conditions. Thus, without modifying in substance or in principle many of the Rules, the validity of which has been generally accepted, the proposed commentaries could serve the purpose of identifying in a number of ways the manner in which the Rules might appropriately be construed in the light of changing conditions.

134. Consideration of Possible Additions to Rules. In its discussions the Group also took into account the possible need for the development within the context of the present Rules or the adoption of additional Rules, content which would bear upon such matters as: the problem of chronically overcrowded prisons; the duration of pre-trial detention; the elimination of abusive disciplinary measures and situations; the need for more effective and responsive inmate grievance procedures; a broad range of issues concerning prison labour; matters relating to the needs of prisoners sentenced for long terms; and the extension of the Rules to categories of persons not now included within their purview.

135. Conclusion Against Hasty Changes or Additions to Substantive Rules. The Group concluded, however, that efforts made in haste to modify, amend, or extend the coverage of the Rules could be self-defeating. The lack of an adequate body of knowledge concerning the implementation of the current Rules as well as the absence of information about the specific reasons why certain Rules have not been incorporated into the practice of some countries suggests the continuing need for the gathering of such data. The Group urges the preparation of study papers based upon more adequate information and which will reflect upon the issues related to substantive changes in the Rules.

136. Possible Division of Rules into General and Special Parts with International Convention on General Part. The Group also took into account the proposal of the Fourth United Nations Congress that consideration be given to the "desirability of dividing the Standard Minimum Rules into a general part, containing a more refined statement of basic principles which might form an international convention, and a special part devoted to technical questions relating to treatment; to which additions could be made in the light of favorable experience". The proposal led the Group to consider the close relationship which exists between the Standard Minimum Rules and other United Nations instruments which are concerned with human rights. It was recommended that the existing close co-operation between the United Nations Crime Prevention and Criminal Justice Section and the Division of Human Rights be continued and that joint or interregional seminars on the Rules be promoted under General Assembly resolution 926 (X). Further, it was the consensus of the Group that efforts to develop the Rules in the form of an international convention would be premature.

137. Periodic Review and Appraisal of Rules. Finally, the Group suggested that the Committee on Crime Prevention and Control may wish to undertake

the continuing task of keeping the Standard Minimum Rules and their implementation under periodic review and appraisal.

138. Review and Reservations on Working Group Report by Committee on Crime Prevention and Control. The Report of the Secretary-General on the meeting of the Working Group of Experts on the Standard Minimum Rules for the Treatment of Prisoners (E/AC.57/8) was reviewed by the Committee on Crime Prevention and Control at its second session, 14 to 23 May 1973. The Committee endorsed the Working Group's recommendations that there should be no convention or substantive change in the Rules for the time being and that "attention should be given to their presentation and implementation" (E/CN.5/494.E/AC.57/14). In the discussions of the Committee, reservations were expressed to the writing of commentaries, and a reservation was also noted to the extension of the Rules to categories of persons other than prisoners. The Committee supported the proposals that greater use be made of national correspondents, and that assistance be given by inter-regional advisers in following up on the implementation of Rules.

139. Reaction of General Assembly (1973). On 14 December 1973 the General Assembly, in resolution 3144 (XXVIII) B, noted with satisfaction the work of the Working Group of Experts and again called upon Member States to make all possible effort to implement the Rules and to take the Rules into account in the framing of national legislation.

2. The Survey By The Secretary-General On The Implementation Of The Rules

140. Transmittal of 1974 Questionnaire. On 14 May 1974, the Secretary-General addressed an inquiry to Member Governments concerning the implementation of the Rules. In an annex to the Secretary-General's note, attention was directed to the fact that an earlier inquiry transmitted in the fall of 1967 had produced responses from only 44 countries.

141. Results of Earlier 1967 Survey. Briefly summarized, the responses to the 1967 survey revealed that the Rules had not in the majority of cases been formally embodied into national laws, though they had influenced the regulations and the practices in half the countries reporting. Five countries went beyond the Rules both in their law and practice. Implementation had depended upon the extent to which the Rules accorded with existing practices, the number of experts and specialists needed, and available resources. However, some 60 percent of the countries replying were applying the Rules to some extent (A/CONF.43/3). The major difficulties in implementation of Rules encountered by the responding countries included lack of funds and trained personnel, inadequate physical facilities, and problems encountered in ensuring uniformity of standards throughout a country (especially in a federal system) and legal and administrative rigidities or inertia.

142. Purposes of 1974 Survey. The current inquiry has sought to obtain a useful statistical overview of the extent of the implementation of each Rule, while at the same time collecting additional information concerning

reasons for the difficulty in obtaining its implementation. The latter information will assist the Working Group in its continuing assessment of the Rules and will enable the United Nations to consider measures by which countries seeking assistance in improving their prison systems may be given support.

143. Structure and Content of 1974 Survey. The Secretary-General's inquiry consisted in three parts: Part I explores the extent to which the Rules have influenced legislative enactments and administrative regulations or are embodied in national laws; Part II concerns itself with the extent to which the Rules are implemented in practice and the reasons why they have not been adopted; while the concluding Part III was designed to obtain information on measures planned for the future, both with regard to implementation of the Rules or deviations therefrom. The survey findings are reported and analyzed in an annex to this paper.

C. THE FUTURE OF THE STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS

144. Need for More Effective Implementation and Incorporation into Penal Law and Regulation. There is a clear need to continue to press for a more effective implementation of the Standard Minimum Rules in all countries. At a minimum the basic standards of care of prisoners should be given force, preferably through their incorporation in the penal law or through administrative regulation. Previous discussions of the Rules extending over a period of many years have suggested that fuller use of the resources of the United Nations could do much to assure that there be a wider acceptance of and understanding of the importance of the Rules for the improvement of the level of care of prisoners and the protection of their rights as citizens.

145. Recommendation Against Major Revision of the Rules. Both the Working Group of Experts and the Committee on Crime Prevention and Control have taken the position that for the most part the present Rules do not require major revision. Further, the revised text of the Rules adopted by the Committee of Ministers of the Council of Europe, 19 January 1973, after some five years of study by the European Committee on Crime Problems, while modifying and refining the earlier Rules to some degree, does not change their intent in any substantial way.

146. Need for Continuing Review of Rules. Nonetheless, the examination of the Rules by the Working Group, the discussions of the Committee on Crime Prevention and Control, and the responses to the inquiry of the Secretary-General urge the importance of the continuing review and assessment of the Rules in the light of changing conditions.

147. Development of New Rules for Persons Detained Other Than Those Covered Under Standard Minimum Rules. While it appears evident at this juncture that the Standard Minimum Rules for the Treatment of Prisoners requires little, if any, substantive modification and that if the Rules were implemented on a global basis a relatively high standard of care of persons confined in prisons or in custody awaiting trial would be assured, the

question arises whether new sets or groups of Rules are not required to meet situations not now covered by the Standard Minimum Rules. While the existing Rules are described as "...applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subjected to security measures or corrective measures ordered by the judge" (Rule 4(1)), Rules covering other categories of persons detained or under supervision require consideration. Indeed the resolution of the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities cited in paragraph 94 suggests the need for Rules to protect the human rights of all persons detained against their will. This is a matter which will require careful study. Attention might also be given to the need for Rules under which nationals of one country convicted of crime in another might be returned to the country of origin for the execution of the sentence imposed.

148. Adoption of Annexes to the Rules. A precedent for the adoption of annexes to the Rules was established by the action of the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders. By the resolution adopted 29 August 1955, nine recommendations on Open Institutions were adopted and on 1 September 1955, thirty-four recommendations on the Selection and Training of Personnel for Penal and Correctional Institutions. All the forementioned recommendations were incorporated in annexes to the Rules and endorsed by the Economic and Social Council.

149. Development of New Rules for Offenders under Community Supervision and Care. The trend away from detention of offenders in institutions raises the question whether new Rules should not be drawn relating to the treatment of persons placed in the community under supervision, or who are under care in residential centres in the community. Should not the Rules provide standards for the selection of offenders who might be considered eligible for such community programs; or speak to the responsibilities of staff involved in these programs toward the community as well as toward the offender? Is it not important to give consideration to the conditions imposed upon offenders placed in community correctional programs, the violation of which may result in the deprivation of liberty? Should not Rules be established which will assure that the offender in the community is assured his rights of citizenship and is not the victim of exploitation while involved in a community program?

150. Citizen Involvement in Correctional Programs. The trend toward a greater involvement of the community in the correction of the offender may also suggest the need to clarify the roles in which citizens might be involved in correctional programs, as volunteers, as citizen advisers, or as advocates for correctional change. It may well be that desirable citizen participation might be stimulated and reinforced were such Rules established.

151. Loss of Rights. A question may also be posed about the desirability of formulating Rules which might contribute to the reduction or elimination by countries of penalties involving loss of rights of citizenship as a consequence of the conviction of crime. While it may properly be argued that the ultimate responsibility for the discussions regarding the character of disabilities attached to conviction of crime are properly the responsibility

of state, is it not appropriate for the United Nations to raise a standard toward which individual states might reasonably be expected to move? The removal of unnecessary impediments to the offender's re-integration into the community deserves thoughtful attention.

152. Treatment of Those Imprisoned. Recognizing that imprisonment will continue to be regarded as a necessary sanction, if limited only to offenders who must be confined because of the danger which they pose for the community, it would appear that there is need for a continuing examination of the Rules and perhaps for the formulation of new or additional standards for the treatment of those imprisoned. The articulation of such standards would serve as a basis for stimulating desirable changes in the laws, and the administrative policies and procedures of prison systems.

153. Rights and Responsibilities of Prisoners. It may also appear desirable to give further attention to the possible need for additional Rules which more clearly define both the rights which might properly be extended to prisoners and the corresponding responsibilities of prisoners which should properly be established by national laws.

D. THE RULES AND THE PRISON OF THE FUTURE

154. Rules in Light of Diminished Use of Prisons. The preceding discussion of the future of the Rules is based on the assumption that in most countries there is little likelihood that the role and function of imprisonment will be significantly altered. It remains a possibility, as indicated earlier, that in some countries a shift in policy might result in the prisons being employed only for the confinement of the residual group of offenders who must be punished and incapacitated. Under these circumstances the question of the extent to which the current Rules are relevant and appropriate would require careful consideration.

155. Rules 6-55 -- General Application. An examination of the Rules of General Application - Rules 6-65 - suggests that these would appear to be appropriate despite a change in policy with respect to the use of the prison. These Rules incorporate basic standards of care to which persons imprisoned are entitled in any event - the right to non-discriminatory treatment; to adequate housing and suitable conditions of work; to provision for personal hygiene; to suitable clothing and bedding; to adequate food which is nutritious, wholesome, well-prepared and served; to suitable exercise in the out-of-doors; to adequate medical care; to freedom from arbitrary and capricious discipline and unnecessary physical restraints; to have access to appropriate administrative or legal remedies of grievances, communication with the outside world at regular intervals, adequate reading materials; and the freedom in the practice of religion.

156. Rules 56-64. Similarly, it would appear that Part II, Rules Applicable to Special Categories, would remain relevant even though it were decided to use the prison exclusively for the confinement of persons regarded as dangerous.

The "Guiding Principles" which are "intended to show the spirit in which penal institutions should be administered and the purposes at which they should aim..." focus, inter alia, upon the need to maintain institutions which do not aggravate the suffering inherent in imprisonment; that employ the period of imprisonment better to prepare the offender to be law-abiding and self-supporting; that employ remedial interventions which are consistent with the offender's needs; that provide a regimen in which respect is shown to the prisoner's dignity as a human being; that emphasize not the exclusion of the prisoner from the community but rather his continuing part in it and that assure supportive services to the prisoner upon his release.

157. Rules 65-81. Difficulties may be expected to arise with respect to the applicability of Rules 65-81 inclusive which are now subsumed under the general heading of "Treatment". In some quarters, at least, the term "treatment" has come to be identified with coercive interventions, designed to produce changes in the behaviour and attitudes of the prisoner. While the Rules may have had their basis in the assumption that the purpose of the prison was a person-changing one, and that the positive response of an inmate to treatment should be regarded as an important determinant of his readiness for release, there is little in the formulation of the Rules which would suggest that this is indeed the case.

158. Rules with Coercive Implications. There are but two of the Rules in the section on treatment which carry coercive implications; Rule 71 (2) provides that: "All prisoners under sentence shall be required to work..." and Rule 77 (1) that "The education of illiterates and young prisoners shall be compulsory..."

159. Right to Reject Treatment. While the remaining Rules regarding treatment do not suggest that a prisoner may be required to participate involuntarily in programs designed to contribute to his rehabilitation, it may at some future time become desirable not only to emphasize the right of the prisoner to have access to supportive treatment measures but his right to reject without prejudice involuntary participation in institutional programs organized with a view to modifying his behaviour.

SUMMARY AND CONCLUSION

160. Existing Rules Do Not Require Significant Modification. The international discussions concerning the Standard Minimum Rules for the Treatment of Prisoners which have taken place over the past several years have produced a consensus that existing Rules do not require significant modification in substance. They represent a body of principles which continue to be relevant to the needs of persons detained, awaiting trial on criminal charges or sentenced to imprisonment.

161. Affirmative Action for Wider Dissemination and Application of Rules. There is also general agreement that affirmative action is required to

assure the wider dissemination of the Rules and their more universal application throughout the world. The preparation of a new introduction to the Rules as well as interpretative commentaries upon them should facilitate such efforts.

162. Impact of Certain Trends on Prison Systems. The climate of change has had significant impact upon prison systems during the past fifteen years in a number of regions of the world. There has been a trend toward decriminalization of victimless crimes; a growing emphasis upon the use of community alternatives to the use of imprisonment; a higher level of public involvement in nearly all aspects of corrections, and a new emphasis upon a systems approach to the development of a correctional services delivery system. In some regions, there has been a noteworthy movement of prison systems from a posture of isolation to a position of closer collaboration with other human services. In many countries efforts to assure the effective protection of the human rights of prisoners, as well as those of other persons detained against their will, have been reinforced.

163. Debate over Utility, Role and Nature of Prisons. Another significant source of change for the future may well be represented by the dialogue and debate which is now taking place concerning the social utility of the prison. A possible outcome of this debate may well be a shift in national social policy, and a substantial reduction in the use of prisons as instruments of social control. If this occurs, new institutional models may emerge - new community - based institutions as well as new types of institutions for the control of the residual group of offenders who pose so serious a threat to the community as to require incapacitation.

164. More Effective Implementation of Present Rules and Elaboration of New Sets of Rules. The speed with which change is taking place in many countries and the recognition that change is likely to continue at an accelerated pace urges the need for a continuing concern about more effective methods to promote the implementation of the existing Rules, but also appears to suggest the need for the elaboration of additional Rules which will respond to changing conditions and policies.

165. Relationships with UN Commission on Human Rights. The continuing concern evidenced by the United Nations Commission on Human Rights emphasizes the importance of the maintenance of strong relationships between the Secretariat and the Commission in the formulation of such new Rules.

166. Possible Areas to be Addressed by New Sets of Rules. Among the areas to which additional Rules might appropriately be addressed include, inter alia: (a) the protection of persons convicted of crime but placed under official supervision in non-institutional settings, (b) the reciprocal enforcement of criminal judgements which would facilitate the service of a criminal sentence at home after conviction abroad, and (c) the protection of the rights and the assurance of humane care of persons who for reasons other than having been charged with or convicted of a criminal offense are detained or confined against their will.

167. Responsibility of Fifth Congress to Maintain Relevance of Rules and Respond to Changes in Penal Developments and Practice. Twenty years have now elapsed since the Rules were first promulgated. These have been years of heightened social change throughout the entire world. These changes may be expected to continue, and perhaps at an even more rapid rate. It is difficult, at best, for social institutions to keep pace with rapidly moving developments, and the problem of adjusting their policies and procedures so that they may respond is most complex. If the Rules are to be a vital force in the field of criminal policy, it is essential that machinery be provided to assure that they not become irrelevant or obsolescent. Effective methods have not been established to accomplish this end. The Congress has the responsibility to consider the means which might be most appropriate and to present practical recommendations to the Committee on Crime Prevention and Control, and through that Committee, to other appropriate bodies of the United Nations to assure that the leadership of the United Nations is promoting the achievement of higher standards for the care and treatment of persons charged with and convicted of crime.

Note: These materials were excerpted for the Working Group of Experts on the Standard Minimum Rules for Treatment of Prisoners by staff of the Commission on Correctional Facilities and Services

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