

COMPARISON
of the
STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS
with the
TEXT OF THE RULES RELATING TO NON-DELINQUENT DETAINEES
DRAFTED BY THE MEDICO-LEGAL COMMISSION OF MONACO
AT THE REQUEST OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS

Annotated Comparison Prepared by the
International Commission of Jurists
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1. The Standard Minimum Rules for the Treatment of Prisoners were originally drawn up by the International Penal and Penitentiary Commission (IPPC) in 1933, and were endorsed by the Assembly of the League of Nations in 1934. ⁽¹⁾ The Secretariat of the United Nations undertook the task of revising the IPPC draft, and the revised text was adopted in 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders. ⁽²⁾ In its resolution, the Congress requested the Secretary-General of the United Nations to submit the Rules to the Economic and Social Council and expressed the hope that they would be approved by the Council and transmitted to governments. In 1957, the Economic and Social Council approved the Rules and invited governments to give favourable consideration to their adoption and application. ⁽³⁾ The Council also endorsed the Recommendations on the Selection and Training of Personnel for Penal and Correctional Institutions and the Recommendation on Open Penal and Correctional Institutions adopted by the First Congress ⁽⁴⁾ and invited governments to take them into account as fully as possible in their administration of penal and correctional institutions.

2. The Minimum Rules for the Protection of Non-Delinquent Detainees were drawn up by the Medico-Legal Commission of Monaco, who had been asked by the International Committee of the Red Cross to study the question of the treatment of persons deprived of their freedom for reasons unconnected with ordinary penal law.

(1) Resolution of September 26, 1934, League of Nations, Official Journal, Special Supplement No. 123, VI, 4.

(2) Resolution of August 30, 1955.

(3) Resolution 663 C (XXIV) of July 31, 1957.

(4) Resolution of September 1, 1955. This subject had been dealt with together with the Standard Minimum Rules at the First Congress on the Prevention of Crime and the Treatment of Offenders.

The Rules were drafted by Professor Jean Graven and adopted by the Medico-Legal Commission. It is not clear what status these Rules have, nor to what extent it is intended to promote their application.

3. With regard to the scope of application of the Standard Minimum Rules, and in particular with regard to their application to political prisoners, the text of the Rules themselves provides adequate evidence that they are intended to apply to all categories of prisoners, including political prisoners. Article 4 (1) provides:

"Part I of the Rules covers the general management of institutions, and is applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to 'security measures' or corrective measures ordered by the judge."

Article 6, which contains the "Basic Principle" of the Rules, provides:

"The following rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

It appears from the debates on the draft text of the Secretariat at the First U.N. Congress on the Prevention of Crime and the Treatment of Offenders (1) that the participants were anxious to ensure the general applicability of the Rules in all areas, but their applicability to all prisoners did not provoke discussion. (2) It would therefore be reasonable to infer that no distinction was ever considered necessary or desirable. It should, however, be remembered that the Rules have always been considered under the United Nations programme on social questions and that detention has thus generally become associated with

(1) A/Conf./6/1. May 1956

(2) In regard to Rule 4(1) discussion did arise on the original draft of the Secretariat which had contained the words "...applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to 'security measures' directed towards their rehabilitation in conformity with modern penology". The term 'security measure' and the accompanying words were considered unsatisfactory, and it was noted that the term might suggest administrative measures rather than measures ordered by a judge or court. The revised text therefore contained the words "...or corrective measures ordered by the judge". This revision seems to indicate a concern to ensure that the imposition of security measures should be a matter for the court to decide.

crime. This is not an argument for disassociating political detention from the compass of the Rules, but simply by way of explanation as to why there is no specific provision for political offenders.

4. The "Graven" text, on the other hand, clearly presumes to fill a "gap" in the standard Minimum Rules. The Preamble to the former text takes account of the rules that have been drawn up for the treatment of "detained delinquents", and considers that social conscience requires the granting of minimum guarantees "to those persons deprived of their liberty without having been prosecuted for penal offences and accused or convicted of an infringement of national or international law". The Preamble further considers "the absence of such guarantees for administrative, political and military internees and persons arrested for security reasons in the event of danger or internal and external strife", and states that there should be drawn up a general statute for their protection.

In a preliminary report on the work of the Medico-Legal Commission¹ Professor Graven says that it was considered expedient to consider such persons deprived of their liberty in their state of detention, without having to consider how the deprivation of freedom occurred, which, it was felt, would raise immeasurable and insoluble problems of a political nature. 'What is important in the minimum rules as a whole is not to discover the reasons for the detention of 'non-delinquents' deprived of their liberty and exactly how this occurred, or whether they have been arbitrarily detained or on account of legal enactments; the essential point, on the contrary, is to know how they are being treated in order to reassure them in the situation in which they find themselves that they enjoy the protection and the maximum possible rights connected with humane treatment and the dignity of the individual, also compatible with the state of subjection in which they are held.' It was considered appropriate to discard certain provisions in the Standard Minimum Rules, held to be of 'no direct interest for non-delinquent detainees', as, for example, the rules concerning the presentation of a warrant and the reasons for arrest, or the contacts and interviews of a prisoner with his lawyer for the preparation of his defence in court. The reason presented for these omissions is the 'concrete realities of the detention.'

The preliminary report deals with 'special aspects of political detention' and points out that whereas political prisoners are often convinced that their detention results from the fulfilment of their duty and that they therefore merit particular respect, the detaining power merely considers the danger they represent to its interests and security and in fact metes out a more rigorous rather than a favoured treatment.

The Commission apparently felt that such prisoners should be given more consideration than those who have been convicted of an offence or that they should be treated at least with as much consideration and given as many guarantees as persons under preventive detention, benefiting from the presumption of innocence. The difficulties presented by collective detention, where it arises, are, however, invoked. The Commission looks at non-delinquent detention in 'a realistic and humane perspective' which counsels it to codify 'certain very definite principles, without amassing a set of rules or complicated methods of execution which would more often than not, especially in some countries lacking modern techniques and material resources, risk not being applied.'

The following comparative texts which set out the provisions of the Minimum Rules adopted by the Medico-Legal Commission of Monaco together with the relative provisions of the Standard Minimum Rules adopted by the Economic and Social Council of the United Nations will show how, in effect, this was done. It will be noted that the comparison can only be made in regard to Part I of the Standard Minimum Rules as there is no equivalent to Part II (Rules applicable to Special Categories) in the Rules of the Medico-Legal Commission.

COMPARATIVE TEXTS

Standard Minimum Rules for the Treatment of Prisoners

PRELIMINARY OBSERVATIONS

1. The following rules are not intended to describe in detail a model system of penal institutions. They seek only, on the basis of the general consensus of contemporary thought and the essential elements of the most adequate systems of today, to set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions.

2. In view of the great variety of legal, social, economic and geographical conditions of the world, it is evident that not all of the rules are capable of application in all places and at all times. They should, however, serve to stimulate a constant endeavour to overcome practical difficulties in the way of their application, in the knowledge that they represent, as a whole, the minimum conditions which are accepted as suitable by the United Nations.

3. On the other hand, the rules cover a field in which thought is constantly developing. They are not intended to preclude experiment and practices, provided these are in harmony with the principles and seek to further the purposes which derive from the text of the rules as a whole. It will always be justifiable for the central prison administration to authorize departures from the rules in this spirit.

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

(2) Part II contains rules applicable only to the special categories dealt with in each section. Nevertheless, the rules under section A, applicable to prisoners under sentence, shall be equally applicable to categories of prisoners dealt with in sections B, C and D, provided they do not conflict with the rules governing those categories and are for their benefit.

5. (1) The rules do not seek to regulate the management of institutions set aside for young

Minimum Rules for the Protection of non-delinquent detainees¹.

Considering that, in application of universally recognised principles of human rights for all sorts and conditions of men, a body of minimum rules for the treatment of detained delinquents has been drawn up on the basis of resolutions and recommendations adopted by the Congress of the United Nations, which met for that purpose in Geneva from August 22 to September 3, 1955;

Considering also that social conscience would not be satisfied if, whilst penitentiary science is increasingly adapting the treatment of delinquents deprived of their liberty to the requirements of justice and humanity, minimum guarantees were not granted to persons deprived of their liberty without having been prosecuted for penal offences and accused or convicted of an infringement of national or international law;

Considering, further, the absence of such guarantees for administrative, political and military internees and persons arrested for security reasons in the event of danger or internal and external strife;

There should be drawn up for the protection of these people a general statute prescribing minimum standards derived from the principle contained in article 94 of the Standard Minimum Rules for persons detained after legal conviction, even for civil offences, the letter and spirit of which are to found in the fundamental rules of the Universal Declaration of Human Rights of December 10, 1948, which stipulates that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 5).

1. Asterisks indicate an alternative text suggested by the International Committee of the Red Cross

persons such as Borstal institutions or correctional schools, but in general part I would be equally applicable in such institutions.

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

Part I. RULES OF GENERAL APPLICATION¹

Basic principle

6. (1) The following rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

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

Register

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

- (a) Information concerning his identity;
- (b) The reasons for his commitment and the authority therefor;
- (c) The day and hour of his admission and release.

1. The Rules applicable to Special Categories will be found on pages 21 - 28 but have not been set out for the purposes of comparison apart from occasional reference.

I. General Principles

1. Nothing in these rules shall justify or encourage measures of detention dictated by exceptional circumstances. Their sole object is to attenuate the hardships of detention.

2. The minimum rules set forth in the following articles shall, in accordance with the requirements of article 2 of the Universal Declaration of Human Rights, be applied impartially and without distinction of any kind based on race, colour, national or social origin, sex, language, religious, political or other opinion, property or other considerations of a similar personal order.

3. Specific rules suitable for particular categories of non-delinquent detainees, taking their condition and need for special treatment or work into account are not precluded, provided they are consistent with these general Rules, notably in so far as they extend the guarantees or benefits herein provided.

II. Registration - Identification and control of detainees

4. In any place, institution or camp in which persons are detained, there shall be maintained complete and up-to-date lists or registers with numbered pages showing:

- a) The identity of each detainee, his citizenship or nationality and the conditions of his detention;
- b) The date of his arrival, details of any transfers from place to place, the date of release or

(2) No person shall be received in an institution without a valid commitment order of which the details shall have been previously entered in the register.

departure.

Retention of Prisoners' property

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

5. Personal effects which cannot be left in his possession shall be recorded and maintained in proper condition to be returned to him upon his release.

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

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

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

Separation of categories

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

- (a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate;
- (b) Untried prisoners shall be kept separate from convicted prisoners;
- (c) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence;
- (d) Young prisoners shall be kept separate from adults.

III. Separation of detainees

6. Men and women detainees shall be accommodated in separate institutions or parts of institutions. In the event of collective detention, family or communal accommodation shall be provided wherever possible.

7. In the event of collective civilian detention, children shall remain with the family or family circle whenever detention conditions and organisation make this possible. Notwithstanding, exceptions justified by educational or professional training requirements shall be permitted. Children less than six years of age shall in no case be separated from their mothers.

8. Civilian or military detainees or internees belonging to countries which are hostile to one another shall be separated. They may be accommodated together in other cases, taking into account national, linguistic or other affinities.

Accommodation

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

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

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

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

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

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

See above Rule 9(1)

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

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9. Non-delinquent detainees shall in all cases and without exception be distinguishable and separated from penal law detainees and convicted prisoners.

IV. Premises, fixtures and fittings

10. All institutions or places of detention shall satisfy the necessary requirements of safety, health and hygiene, taking the number of detainees and climatic and seasonal conditions into account. They shall be sufficiently large to avoid overcrowding and demoralising promiscuity. They shall be properly maintained and cleaned.

11. There shall be adequate space, ventilation, lighting and heating for each detainee, in a manner consistent with scientifically acknowledged standards of hygiene to provide normally healthy living conditions and to avoid any risk of impairing the health of persons detained. (As a general rule, 8 cubic metres of space for each detainee is an acceptable standard)*

12. Premises shall be appropriate to the demands of any work performed, particularly as regards space, lighting, ventilation and any other essential condition to enable work to be carried out normally and to maintain the health of the workers.

13. When detainees need not be kept in individual cells, but are in rooms and dormitories (when detainees are not in individual cells but in rooms and dormitories)* they shall be grouped by selection according to their suitability for such accommodation, in accordance with disciplinary and moral requirements. Night supervision should be appropriate.

14. Each detainee shall, in keeping with local or national standards, have an individual bunk or bedding; the latter shall be properly maintained and changed often enough to ensure its cleanliness. Detainees shall be responsible for keeping rooms, premises and beds neat and tidy in accordance with standing regulations.

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

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

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

Personal hygiene

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

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

Clothing and bedding

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

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

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

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

Exercise and sport

21. (1) Every prisoner who is not employed in out-door work shall have at least one hour of

15. Amenities for baths, showers and cleanliness shall be adequate and maintained in proper operating condition at temperatures suited to the climate so that each detainee shall be enabled and required to use them as frequently as hygiene demands. Sanitary facilities shall be such as to enable detainees to comply with the needs of nature at any time in a manner proper and decent.

V. Hygiene, personal cleanliness, clothing, exercise.

16. The authorities shall demand personal cleanliness of the detainees and provide them with the facilities therefore (water, toilet requisites, necessities for care of the hair and the beard), to enable detainees to maintain a decent appearance, dignity and self-respect. The authorities demands shall not be of a vexatious nature under the pretext of hygiene (e.g. head shaving or forbidding beards).

17. If detainees are not permitted to wear and change their own clothing that which is issued shall be appropriate to the climate and shall afford adequate protection. It shall not be degrading or humiliating nor give rise to confusion with the garb issued to convicted penal law offenders.

All clothing shall be clean and well maintained. When detainees are permitted to wear their own clothing arrangements shall be made to ensure that it is clean, decent and fit for use at the beginning of the detention period. Provision shall be made for the cleaning and changing of underclothing as frequently as is consistent with the demands of hygiene.

18. Every detainee shall be entitled to daily physical exercise (in the open air)*

suitable exercise in the open air daily if the weather permits.

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

(In regard to work, see Rules 71-76 applicable to prisoners under sentence and Rule 89 applicable to prisoners under arrest or awaiting trial. Below pages 24-25 and 27).

Food

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

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

Medical Services

22. (1) At every institution there shall be available the services of at least one qualified officer who should have some knowledge of

for at least one hour; this may take the form of sport, gardening or supervised walks within the detention institution and to the extent permitted by climatic conditions. Grounds, equipment and other necessities appropriate to the number of detainees shall be provided as far as possible. (Detainees in single cells shall be permitted to leave them during the day to associate with other detainees. They shall be confined to their cells only during the night)*.

VI. Work and diet

19. Work which detainees are compelled to perform shall not be harmful or degrading. It shall as far as possible be appropriate to their physical and intellectual ability. It shall not last for an excessive length of time and there shall be the necessary breaks to avoid impairing the health of those obliged to perform it.

Means of compulsion to enforce the performance of work or the standard output are subject to general rules in this respect (art. 30 and 31).

20. (i) Every detainee shall at normal hours be decently served with a wholesome meal of nutritious value sufficient to maintain health and strength. Drinking water shall be available as detainees require.

The daily diet shall be issued free and its calorific contents shall be consistent with acknowledged standards appropriate to age and work performed.

(ii) Permission for non-delinquent detainees to obtain extra food at their own expense or at the expense of their family, friends or of a relief society, shall be provided for in the internal regulations on condition that such facilities are not abused.

If circumstances permit, detainees may themselves prepare the food with which they are provided.

VII. Medical Care

21. (i) Every place of detention shall have the services of at least one doctor.

psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.

(2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitably trained officers.

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

23. (1) In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

(2) Where nursing infants are allowed to remain in the institutions with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

24. The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.

25. (1) The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.

(2) The medical officer shall report to the director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment

The medical service shall be organized in close cooperation with the public health administration.

Provision shall be made for the services of a psychiatrist for diagnosis and treatment of mental disorders.

Any place of detention where treatment is given shall, as far as possible, have experienced personnel, equipment, means for treatment and the pharmaceutical products required for nursing and for suitable and appropriate medical and dental treatment.

(ii) When places of detention do not have the necessary doctors, personnel, equipment and means, provision shall be made for transfer of detainees to suitable civilian or military hospitals, subject to the essential security measures.

22. In every institution where women are detained there shall be suitable provision for pre- and post-natal treatment of maternity cases and for child-birth. In the absence of such facilities provision shall as far as possible be made for transfer to hospital subject to the necessary security measures.

Nurseries shall be provided, with experienced personnel, where nursing infants may be cared for whenever they cannot be left with their mothers.

23. The doctor shall watch over detainees' health in accordance with the generally acknowledged principles of medical ethics. He shall carry out the necessary regular inspections and examinations,

In particular he shall:

a) examine detainees on arrival and whenever necessary thereafter, in order to isolate detainees who have or are suspected of having infectious or contagious diseases and those liable to be dangerous to their fellow detainees; to prescribe, order or take precautionary measures and give necessary treatment; to decide every detainee's capacity for work;

b) visit regularly and as the need arises, special cases, sick detainees, those who display or complain of symptoms

or by any condition of imprisonment.

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

- (a) The quantity, quality, preparation and service of food;
- (b) The hygiene and cleanliness of the institution and the prisoners;
- (c) The sanitation, heating, lighting and ventilation of the institution;
- (d) The suitability and cleanliness of the prisoners' clothing and bedding;
- (e) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.

(2) The director shall take into consideration the reports and advice that the medical officer submits according to rules 25 (2) and 26 and, in case he concurs with the recommendations made, shall take immediate steps to give effect to those recommendations; if they are not within his competence or if he does not concur with them, he shall immediately submit his own report and the advice of the medical officer to higher authority.

Discipline and punishment

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

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

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

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

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

of illness and those to whom his or the staff's attention has been drawn;

c) advise the director of the institution on matters of hygiene and cleanliness of premises, dormitories, work rooms and quarters, on the need for and operation of occupational equipment and sanitary installations (lighting, ventilation, heating, etc), on diet, suitable clothing, regulations for physical exercise, rest periods, and any other requirements for the health of the detainees.

24. The doctor shall report to the director regularly and whenever any circumstances involving a detainee or detainees makes this necessary.

The director shall take into consideration the advice and reports of the doctor responsible for hygiene and the detainees' health. If the director agrees with the doctor he shall immediately take any necessary measures. If he disagrees he shall submit the matter without delay to higher authority.

VIII. Discipline and outside contacts

25. (i) Order and discipline shall be firmly maintained but shall not involve restrictions unnecessary to good order security and organisation of community life.

(ii) No detainee shall be empowered to exercise disciplinary measures. According to circumstances, systems of good order and discipline, the operation of which is to some extent confided in the detainees themselves, with responsibility for organising certain social, educational, sporting or recreational activities subject to supervision, may be justified.

(iii) Detention conditions, the rights and obligations of detainees, working hours, leisure time, and the nature and duration of disciplinary punishment, shall be determined by legislative or administrative regulations.

37. Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.

26. (i) To an extent compatible with the maintenance of good order, administrative needs and security requirements, detainees shall be permitted to correspond with their families and relatives as well as with the legal representatives, agents or advisers whose services they require for the defence of their interests.

(Detainees shall be permitted to correspond with their families and relatives as well as with the legal representatives, agents and advisers whose services they require for the defence of their interests. They shall be permitted to receive visits from these persons. There shall be a strict time limit to any restrictions in this connection).*

Notification of death, illness, transfer, etc.

44. (1) Upon the death or serious illness of, or serious injury to a prisoner, or his removal to an institution for the treatment of mental affections, the director shall at once inform the spouse, if the prisoner is married, or the nearest relative and shall in any event inform any other person previously designated by the prisoner.

Death, illness, serious accidents, transfer to an institution for mental cases or to another place of detention shall be communicated to the detainee's family or relatives either by the administration or by the detainee himself when he is able to do so by a relative or friend at his dictation. Likewise detainees shall be kept informed of events concerning their families.

(2) A prisoner shall be informed at once of the death or serious illness of any near relative. In case of the critical illness of a near relative, the prisoner should be authorized, whenever circumstances allow, to go to his bedside either under escort or alone.

(3) Every prisoner shall have the right to inform at once his family of his imprisonment or his transfer to another institution.

38. (1) Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.

(ii) Unless serious and exceptional circumstances demand otherwise, foreign detainees shall be granted reasonable facilities to communicate with their country's diplomatic or consular representatives or with those of the State entrusted with their interests, and with any authorities or national or international humanitarian institutions whose task it is to assist or protect detainees.

(2) Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.

39. Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special

27. Detainees shall be kept regularly informed of major current events either through newspapers, periodicals,

institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the administration.

Books

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

Religion

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

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

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

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

Instruments of restraint

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

- (a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;
- (b) On medical grounds by direction of the medical officer;
- (c) By order of the director, if other methods of control fail, in order to

other publications, radio broadcasts, lectures or other similar media authorised or controlled by the administration.

IX. Culture, recreation and moral comfort

28. Subject to the same conditions of authority and control, reasonable recreational and educational amenities appropriate to the circumstances and place of detention shall be provided in the form of lectures, slide or film projections, musical, theatrical, sport and other programmes, reading material and various games.

29. Detainees shall as far as possible be provided with spiritual or religious comfort. If there is a sufficient number of detainees of the same religion a minister thereof should be authorised to organise religious services and visit the detainees at specific times.

A detainee shall never be refused the right to contact a qualified representative of any religion. If a detainee refuses to receive a minister of religion or to take part in religious service his attitude shall be respected; no compulsion shall be used or punishment inflicted for that reason.

X. Instruments of restraint or punishment

30. (i) No means of restraint such as handcuffs, chains, irons or strait-jackets shall be used except in the following cases:

- a) As a precaution against escape, during transfer or in conditions and circumstances involving a risk thereof; such implements shall be removed when the detainee appears before a judicial or administrative authority and when the risk of which there was reasonable apprehension no longer obtains;

prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.

b) On orders of the director, if need be after urgent consultation with the doctor, when normal means of controlling a detainee have failed or proved inadequate to prevent him from injuring himself and others and from damaging property;

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

(ii) The nature and use of restrictive measures shall be prescribed by the general administration, to which the director of the institution shall report immediately on serious or urgent cases. They shall not be applied for longer than is strictly necessary.

30. (1) No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offence.

31. (i) No detainee shall be punished otherwise than in conformity with legal provisions and regulations, and never twice for the same offence.

(2) No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case.

Punishment shall not be inflicted, except in very minor cases, without the detainee being informed of the accusation against him and his being given the possibility of presenting his defence, if necessary through an interpreter, and without a full and impartial enquiry by the director.

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

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

(ii) Corporal punishment, confinement to cells which are dark or too small to permit normal posture, blows, and all cruel or degrading treatment shall be prohibited.

32. (1) Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.

Solitary confinement, reduction of diet or any other punishment likely to impair physical or mental health shall be inflicted only to an extent which is reasonable or certified in writing by a doctor to be bearable and without great danger.

(2) The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary to or depart from the principle stated in rule 31.

(3) The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

The doctor shall visit detainees undergoing such disciplinary punishment and report to the director immediately if he considers the punishment should be changed or ceased for physical or mental health reasons.

Removal of prisoners

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

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

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

Information to and complaints by prisoners

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

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

36. (1) Every prisoner shall have the opportunity each week day of making requests or complaints to the director of the institution or the officer authorized to represent him.

(2) It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or any other members of the staff being present.

XI. Transfers

32. In the event of transfer from one place of detention to another, detainees shall be protected as much as possible from the public gaze, unwelcome or hostile curiosity, humiliation, insult or violence.

33. The cost of transferring detainees shall be borne by the administration and transfers shall be carried out in the same conditions for all, subject to special consideration for age, sex or sickness and even rank where appropriate.

Transfer of detainees, prisoners or internees under conditions which are inhuman or dangerous for their health due to overcrowding, lack of air, light, or food or for any other circumstances affecting their physical well-being, shall be prohibited.

XII. Information and complaints.

34. On arrival, each detainee shall be given, through posters or otherwise, precise, written and clearly understandable information on conditions and rules applicable to detainees of his category, regulations for discipline, authorized methods of obtaining information and lodging requests or complaints, and any other details necessary for him to know his rights and obligations and to adapt to life in the penitentiary institution.

If a detainee is illiterate such information should be given to him orally.

35. Every detainee shall have the opportunity of making requests or complaints to the director of the place of detention or to an official authorized to represent him, either through the ordinary channels adopted in the institution or by addressing himself to the inspector or panel of inspectors in the course of their inspection.

He shall be permitted to talk with the inspector or any officer appointed to carry out inspection, without the presence of the director, other members of the detention institution's staff or any other person.

(3) Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.

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

(ii) Unless a request or complaint is obviously groundless it shall be investigated quickly and impartially by the director and a reply shall be given as soon as possible. If rejected, the grounds therefor must be stated.

Detainees shall not be punished for making complaints even if they are rejected.

Institutional personnel

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

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

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

47. (1) The personnel shall possess an adequate standard of education and intelligence.

(2) Before entering on duty, the personnel shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests.

(3) After entering on duty and during their career, the personnel shall maintain and improve their knowledge and professional capacity by attending courses of in-service training to be organized at suitable intervals.

XIII. Staff professional qualifications and character

36. (i) The administration responsible for places of detention and for proper organisation and conduct shall exercise care in the recruitment of its officials and staff of all ranks in places of detention of all types (including detention camps and internment camps), by enquiring into their character, qualifications and sense of duty and responsibility.

(ii) Any official or staff member committing a breach of legal and professional obligations or duties shall be punished by disciplinary or penal measures.

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

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

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

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

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

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

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

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

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

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

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

53. (1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.

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

(3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.

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

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

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

Inspection

55. There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.

- XIV. Inspections and supervision

37. Qualified and experienced inspectors appointed by the authorities shall regularly and frequently inspect places of detention and the conditions therein.

Inspectors shall, in particular, check that:

a) Places of detention are run in conformity with the law, regulations, agreements or prevailing provisions, including the present Minimum Rules, with a view to ensuring observance of the conditions and aims thereof;

b) detainees and internees are treated in accordance with principles of humanity, justice and dignity consistent with the present Rules and those postulated by the Universal Declaration of Human Rights.

38. Inspection and control shall be authorised, particularly by qualified

representatives of the International Committee of the Red Cross or other international or regional institutions of which the objectives are humanitarian and the action and impartiality acknowledged and known to be reliable.

The necessary arrangements for such inspections shall be made with the relevant administration and directors of institutions, camps and other places of detention or internment.

Visits and inspections shall be permitted without let or hindrance by conditions or obstacles which would vitiate them and impede the achievement of their humanitarian purpose. (Persons carrying out such inspections shall be given facilities to talk in private with detainees of their own choosing).*

PART II. RULES APPLICABLE TO SPECIAL CATEGORIES

A. PRISONERS UNDER SENTENCE

Guiding principles

56. The guiding principles hereafter are intended to show the spirit in which penal institutions should be administered and the purposes at which they should aim, in accordance with the declaration made under Preliminary Observation 1 of the present text.

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

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

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

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

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

61. The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it. Community agencies should, therefore, be enlisted wherever

possible to assist the staff of the institution in the task of social rehabilitation of the prisoners. There should be in connection with every institution social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his family and with valuable social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.

62. The medical services of the institution shall seek to detect and shall treat any physical or mental illnesses or defects which may hamper a prisoner's rehabilitation. All necessary medical, surgical and psychiatric services shall be provided to that end.

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

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

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

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

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

Treatment

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

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

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

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

Classification and individualization

67. The purposes of classification shall be:

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

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

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

69. As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a

programme of treatment shall be prepared for him in the light of the knowledge obtained about his individual needs, his capacities and dispositions.

Privileges

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

Work

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Education and recreation

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

(2) So far as practicable, the education of prisoners shall be integrated with the

educational system of the country so that after their release they may continue their education without difficulty.

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

Social relations and after-care

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

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

81. (1) Services and agencies, governmental or otherwise, which assist released prisoners to re-establish themselves in society shall ensure, so far as is possible and necessary, that released prisoners be provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.

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

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

B. INSANE AND MENTALLY ABNORMAL PRISONERS

82. (1) Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible.

(2) Prisoners who suffer from other mental diseases or abnormalities shall be observed and

treated in specialized institutions under medical management.

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

(4) The medical or psychiatric service of the penal institutions shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.

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

C. PRISONERS UNDER ARREST OR AWAITING TRIAL

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

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

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

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

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

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

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

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

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

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

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

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

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

93. For the purposes of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal adviser with a view to his defence and to prepare and hand to him confidential instructions. For these purposes, he shall if he so desires be supplied with writing material. Interviews between the prisoner and his legal adviser may be within sight but not within the hearing of a police or institutional official.

D. CIVIL PRISONERS

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

GENERAL OBSERVATIONS

1. The Minimum Rules for the Protection of non-delinquent Detainees (hereinafter referred to as MR) are clearly designed to deal with a restricted class of detainees. They are not as comprehensive as the Standard Minimum Rules for the Treatment of Prisoners (hereinafter referred to as SMR) which are generally more specific and contain additional provisions for 'special categories' of prisoners.
2. It could be said that the provisions of the MR which deal with security measures have been elaborated with a view to the interests of State security. Equivalent provisions in the SMR relate to the physical security of prison personnel, other prisoners and the general public. While the security of the State may be an important consideration for the State itself in regard to detention on political grounds, it is hardly appropriate that the Medico-Legal Commission should deal with detention in the same optique.

POINTS OF DIFFERENCE

3. The SMR provide (7(1)(b)) that the reasons for the commitment and the authority therefor shall be entered in the Register. Rule 7(2) provides that no person shall be received in an institution without a valid commitment order. The MR contain no similar provisions.
4. The MR provide (6 and 7) for family accommodation in the event of collective detention; they also provide for the separation of detainees of countries which are hostile to one another (8). The SMR contain no provision for family accommodation, and indeed specify that young prisoners shall be kept separate from adults(8(d)).
5. The SMR provide that prisoners shall be required to bathe or shower at least once a week (13); the MR provide for baths or showers 'as frequently as hygiene demands'.
6. The MR provide that demands on the part of the authorities in regard to personal cleanliness shall not be of a 'vexatious nature' (16); they also provide that any clothing issued shall not give rise to confusion with that of convicted

penal law offenders (17). Rule 88(2) of the SMR relating to prisoners under arrest or awaiting trial contains a provision similar to the latter.

7. The MR provide (20(i)) that the daily diet of prisoners shall be provided free of charge. This is apparently presumed in the SMR. The MR also provide (20(ii)) that detainees may prepare their own food if circumstances permit.

8. In regard to discipline, the SMR provide (27) that discipline and order shall be maintained with no more restriction than is necessary for 'safe custody and well-ordered community life'. The wording of the relevant provision in the MR (25(i)) is 'good order, security and organisation of community life'.

9. The provision regarding correspondence in the MR (26(i)) is greatly restricted in the interest of security, and it is interesting to note that the alternative draft presented by the International Committee of the Red Cross on this point differs radically for the benefit of the detainee.

10. The SMR provide (44(2)) for a visit by the prisoner to be authorised to a near relative in the case of critical illness. There is no equivalent in the MR.

11. In regard to facilities for foreign nationals to communicate with their diplomatic representatives, the MR (26(ii)) contain the proviso 'unless serious and exceptional circumstances demand otherwise' but does not define what constitutes such circumstances.

12. The MR contain wider provisions in regard to recreation (28) than the SMR (40) although the former are subject to 'conditions of authority and control' while the provision regarding the library in the SMR (40) contains no limitation.

13. The provisions relating to instruments of restraint and punishment differ considerably in the two texts. The SMR provide (33):

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

The MR on the other hand contains the provision (30(i)):

'No means of restraint such as handcuffs, chains, irons or strait-jackets shall be used except in the following cases.....'

Both Rules contain similar provisions as to circumstances which are exceptional, although the MR do appear less protective. See 30(i)(a & b) as compared with 33 (a & c) of the SMR.

It is submitted that in general non-delinquent detainees are liable to be much less dangerous than persons convicted of penal offences, and that the harsher provisions in regard to punishment contained in the MR are thus unnecessary and out of place.

14. Again in regard to punishment, the SMR categorically state (30(2)) that 'no prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence', whereas the MR contain the surprising additional words (31(i)) 'except in very minor cases'. Why punishment for 'minor cases' should be permitted without the prisoner having an opportunity to defend himself in the case of non-delinquent detainees, when there is no such exception in the SMR is difficult to understand.

15. In the SMR (32(1) punishment by close confinement or reduction of diet may never be inflicted without a written certificate from the medical officer that the prisoner is fit to sustain it. The MR again widen the terms for such punishment and provide (31(ii) that 'solitary confinement, reduction of diet or any other punishment likely to impair physical or mental health shall be inflicted only to an extent which is reasonable or certified in writing by a doctor.....'

16. In regard to transfers from one place of detention to another, both Rules provide that they shall be carried out in the same conditions for all, but the MR add (33) 'subject to special consideration for age, sex or sickness and even rank where appropriate'.

17. The SMR contain more detailed provisions in regard to the institutional personnel than the MR.

18. The MR contain more detailed provisions in regard to inspection and supervision than the SMR.