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REGIONAL CONSULTATIVE GROUPS  
IN THE FIELD OF THE PREVENTION  
OF CRIME AND THE TREATMENT OF  
OFFENDERS

STANDARD MINIMUM RULES FOR THE TREATMENT  
OF PRISONERS

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OBSERVATIONS RELATING TO THE REVISED DRAFT  
OF STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS  
APPROVED BY THE INTERNATIONAL PENAL AND PENITENTIARY COMMISSION  
ON 6 JULY 1951

## INTRODUCTION

The Standard Minimum Rules for the Treatment of Prisoners were drawn up by the International Penal and Penitentiary Commission in 1929 and revised in 1933, and were endorsed by the Assembly of the League of Nations in 1934.

The first international group of experts in the field of the prevention of crime and the treatment of offenders, convened by the United Nations from 1 to 8 August 1949, recommended that the Social Commission should revise these Standard Rules after consultation with the Commission on Human Rights and in consultation with governments and interested organizations.

At the same time the International Penal and Penitentiary Commission, at its session held in Bern on 6 August 1949, adopted a resolution accepting it as the duty of the Commission to undertake the revision of the Rules forthwith, and asking the Secretary-General of the Commission to seek the co-operation of the United Nations to this end. The resolution further specified that the revised Rules should be submitted to the United Nations in order that consideration might be given to the steps necessary to apply them in place of the existing rules.

At its fifth session in December 1949, the Social Commission of the United Nations approved in principle the revision of the Standard Minimum Rules for the treatment of Prisoners. The Commission agreed that the International Penal and Penitentiary Commission should undertake the preliminary work in this connexion, and requested the Secretary-General to co-operate with the Commission in transmitting its questionnaire to governments. The Economic and Social Council endorsed this decision on 17 February 1950 by the approval of the report of the Social Commission.

The questionnaire prepared by the International Penal and Penitentiary Commission to serve as a basis for the revision of the Standard Rules, was forwarded by the Secretary-General of the United Nations to governments and to the specialized agencies concerned in July 1950. The replies received were transmitted to the Secretary-General of the Commission. The preliminary work was entrusted to a sub-committee which began its work in the beginning of 1950, and at its last session on 6 July 1951, the International Penal and Penitentiary Commission approved a revised draft of the Standard Minimum Rules. This draft was transmitted to the Secretary-General of the United Nations on 8 August 1951.

In October 1951, the draft of the revised Standard Minimum Rules was submitted for observation to the specialized agencies concerned, the Division of Human Rights of the Secretariat of the United Nations, and governments.

Up to 20 April 1952, the following governments replied to this enquiry (in addition to the international organizations consulted):

Africa: Ethiopia, Union of South Africa.

Asia and Far East: Burma, Ceylon, India, Japan, Philippines.

Europe: Austria, Belgium, Denmark, Finland, France, Germany (Federal Republic of), Iceland, Ireland, Italy, Luxembourg, Monaco, The Netherlands, Norway, Sweden, the United Kingdom, Yugoslavia.

Latin America: Costa Rica.

Middle East: Lebanon.

North America: Canada, United States of America.

Oceania: Australia, New Zealand.

A systematic exposition of the observations received with reference to the revised draft of the Standard Minimum Rules, is presented below under the following three headings:

- I. Observations of a general nature. 1/
- II. Observations pertaining to specific dispositions of the draft. 2/
- III. Observations pertaining to specific questions not dealt with in the draft.

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1/ In order to give a total view of the comments submitted by a single government, the observations of a general nature are followed in each case by the number of the specific provision to which the observation refers.

2/ This part reproduces the full text of the draft Standard Minimum Rules, and each provision is followed by the relevant observations.

I

OBSERVATIONS OF A GENERAL NATURE

International Organizations

INTERNATIONAL LABOUR ORGANIZATION

I have pleasure in forwarding below certain proposed modifications which are chiefly designed to bring the drafting of the Rules into conformity with accepted international labour terminology and to include in the Rules provision for vocational guidance and employment counselling services to prisoners in addition to those services already provided for by the draft. (See observations relating to General Principle 4, Rules 48, 51, 59 and 66.)

WORLD HEALTH ORGANIZATION

We are pleased to be given the opportunity to review this document, especially with respect to questions relating to personal hygiene and medical services. I have had the appropriate sections of our Organization review the document and, in general, we feel it is well framed from the point of view of health. On the other hand, there are two suggestions that have been made to which you may wish to give consideration. (See observations relating to General Principle 5, and Rule 18 a.)

UNESCO

The Director-General desires me to state that these draft Standard Minimum Rules fall outside the general purview of UNESCO and that he does not therefore consider it appropriate for him to offer comments. At the same time, it goes without saying that UNESCO would support the humane considerations which inspire these draft rules and would in particular give specific support to draft rules 62 and 63 dealing with education and recreation.

DIVISION OF HUMAN RIGHTS

It is the opinion of the Division of Human Rights that on the whole the Draft Rules are satisfactory when judged from the point of view of human rights in general and the status of women in particular. Such comments as the Division may make on individual provisions of the draft Rules should therefore be read in the light of this general approval. (See observations relating to Rules 1, 24, 27, 32, 47, 74, 75, 76, and in part III.)

Africa

## ETHIOPIA

The matter having been referred to the Ministry of the Interior, the Ministry understand that very few of the draft rules would in application appear to be in conflict with the present practice in Ethiopia. The Ministry have to express the appreciation of the Imperial Ethiopian Government for the work being done by the International Penal and Penitentiary Commission...

## UNION OF SOUTH AFRICA

The Union Government are in general agreement with the revised draft rules for the treatment of prisoners as presented in the pamphlet submitted by the Secretary-General. In this connexion it may be pointed out that the Union's Prison Act (No. 13 of 1911) and the Regulations framed thereunder already provide the necessary machinery for the carrying out of the principles enunciated in the great majority of the draft rules. These principles have been applied in the Union for many years. The following brief comments are submitted regarding the application in the Union of the undermentioned draft rules. (See observations relating to Rules 25, 33, 59, 61, 71 and 73.)

Latin America

## COSTA RICA

We carefully examined the suggestions formulated by the International Penal and Penitentiary Commission. These suggestions are based on general principles which embody the most advanced concepts in penology and they derive great value from their source for they do not report theoretical views but rather principles which are valid in all civilized countries... Our Government regard with sympathy the recommendations made in the draft Rules submitted by the Secretary-General of the United Nations, because these Rules confirm authoritatively that the interest of the Government in this matter, as is expressed in the general principles of the draft Law of Social Defence, is going in the right direction.

part I

North America

CANADA

The authorities in charge of the Canadian Federal Penitentiaries state that the General Principles set out in the Draft of Standard Minimum Rules are subscribed to and incorporated in their present policy but subject to the limitations imposed upon the physical segregation of groups of classified prisoners by available penitentiary accommodation in Canada. So far as the draft rules themselves are concerned, present Canadian Federal Regulations conform to the principles laid down, with the following exceptions. (See observations relating to Rules 3, 25, 38 and 59.)

UNITED STATES OF AMERICA

The revised draft of Standard Minimum Rules has been reviewed by the appropriate Federal authorities concerned with this subject. These Rules appear to be basically sound. None of the principles or standards is contrary to the philosophy and practices of the Federal penal system.

Asia and the Far East

BURMA

My Government have no remarks to offer on the draft rules.

CEYLON

The Government has no comments to offer... It may be mentioned that these rules have been accepted in principle by the Government of Ceylon and are being carried out in practice in the local prison administration and treatment of prisoners.

INDIA

The Government of India have no objection to the adoption of the revised standard minimum rules for the treatment of prisoners.

## part I

## JAPAN

The Japanese Government heartily endorses the Draft of Standard Minimum Rules for the Treatment of Prisoners prepared by the International Penal and Penitentiary Commission at the request of the United Nations Organization, which represent a higher standard, and embrace fuller provisions than have been attained hitherto in the way of guaranteeing human rights, and promoting the physical and spiritual welfare. It has already issued orders substantially in line with the stipulations of these draft rules for the administration of the Japanese Prison Law of 1908, and is striving to raise the standard of the treatment of prisoners. However, the Japanese Government volunteer to comment on the following two Rules. (See observations relating to Rules 35 and 77.)

## PHILIPPINES

In general, the principles and ideologies contained in the Draft of the Standard Minimum Rules for the Treatment of Prisoners, as prepared by the International Penal and Penitentiary Commission, are reflected, if not embodied, in the various sets of Rules and regulations promulgated by the Director of Prisons of the Philippines... There are, however, certain matters treated in the Draft of the Standard Minimum Rules which the Bureau of Prisons consider of importance and which are either reflected in the above mentioned set of rules and regulations of this Bureau or which, for some reason or another, are not touched upon at all. The following comments will therefore show any divergence or dissimilarity between the rules contained in the Draft under comment and the rules already promulgated by this Bureau, or where the same general principle is involved, the reasons for the different procedure followed in this Bureau. All such other matters contained in the Draft of the Standard Minimum Rules as are not treated in the following comments are deemed reflected or incorporated in the rules and regulations already published by this Bureau... (See observations relating to General Principles 1, 2, 3, 4, 5, 6, 7, 8.) The wisdom, convenience and necessity of the rules under this heading are generally adopted in the sets of rules and regulations of the Bureau of prisons. There are, however, some of these Rules (Draft) the principles of which cannot be actually applied or can only be followed to a limited extent owing to lack of facilities. These particular Rules are commented on as follows. (See observations relating to Rules 40, 48, 52 to 54, 58, 59, 61, 64, 65, 66 and 78.)

## part I

Europe

## GERMANY, FEDERAL REPUBLIC OF

The Government of the Federal Republic of Germany has submitted to the Penitentiary Commission consisting of Penitentiary Advisers of the Land Governments the draft of the Standard Minimum Rules for the Treatment of Prisoners... At a session of this Commission, the principles laid down in the draft were unanimously approved after a detailed discussion.

## AUSTRIA

The essential views and requirements relating to the treatment of prisoners are expressed in the draft under consideration. It is the opinion of the Austrian judicial authorities that the recommendations outlined in the draft are in full accord with the demands for an up-to-date treatment of prisoners from the legal and social as well as from the purely human point of view. The principle of far reaching individualization in the treatment of prisoners and the classification of prisoners on the basis of their individual characteristics and assumptions as expressed in the draft, is fully endorsed by the Austrian judicial authorities as is the principle of making it the primary task of the prison term to lead the prisoner back into human society not by force but as far as possible by educational means and by encouraging his self-respect and self-confidence. The Austrian judicial authorities consider the rules outlined in the draft as absolutely sufficient to serve as basis for the member states to build up and expand their system of treatment of prisoners in their respective countries according to the prevailing legal and social conditions there. Apart from some insignificant exceptions, the rules are in almost full accordance with the system of and the practice in the treatment of prisoners in Austria. Some particular demands, especially with regard to the individualization in the treatment of prisoners and their separation into groups, cannot be materialized within the near future. This is partly due to the overcrowded conditions prevailing in Austrian Penal Institutions and partly due to the fact that Austrian prisons are chiefly organized on a community basis. Unfortunately, Austria lacks at present the means for the erection of more suitable Penal Institutions. The Austrian Judicial Administration intends a revision of the current standard rules for the treatment of prisoners in the near future and will take this opportunity to deliberate on the recommendations outlined in the draft under consideration.



## BELGIUM

The Belgian Government does not wish to raise any objection in relation to the revised text of the Standard Minimum Rules for the Treatment of Prisoners.

## DENMARK

The Danish Government is able to recommend that endeavours be made to have the draft adopted.

## FRANCE

This document does not call for any important reservation on the part of the interested branches of the Administration. Almost all its provisions, namely those found in the chapter on general principles, are already applied in the prison services and institutions which are under our competence. The Rules which have not as yet been adopted because of the difficulties and consequences of the war, will undoubtedly be put into effect as soon as circumstances permit. (See also observations in part III.)

## IRELAND

The Government of Ireland has no comments to make on the Draft Standard Minimum Rules for the Treatment of Prisoners, as revised by the International Penal and Penitentiary Commission. No difficulty in relation to the penal system of this country is presented by these Rules, the general principles of which are already incorporated in the "Rules for the Government of Prisons, 1947".

## ICELAND

The Icelandic Government is of the opinion that the proposed rules are praiseworthy and is in favour of their acceptance. It would, however, be difficult to apply them here because of lack of prison space for separate facilities according to sex, age, criminal record, etc., and furthermore because of lack of trained personnel.

part I

ITALY

The Italian Government have no remarks to make in regard to said text. The Italian delegates who attended the meeting which took place in Bern last July, wherein the rules were approved by the International Penal and Penitentiary Commission, had indeed already the opportunity to make all remarks that the Italian Government wished to present, remarks which it appears were also partially accepted.

LUXEMBOURG

The Government of Luxembourg has co-operated in the drafting of the revised text of the Standard Minimum Rules for the Treatment of Prisoners through its representative to the International Penal and Penitentiary Commission, and it does not, therefore, have any observations to submit in this connexion.

MONACO

The adoption of the principles recommended (which are applied in the Principality) does not call for any objection. The measures reconcile the necessity for society to protect itself against crime with the duty of the community to avoid the derogation of human dignity, to try to rehabilitate prisoners, and to effect their re-adjustment in the social order.

NORWAY

The Norwegian Government has no comments to make on the revised rules for treatment of prisoners.

NETHERLANDS

The revised draft does not give rise to comment on the part of the Government of the Kingdom of the Netherlands, at least not as far as the Netherlands itself is concerned. The new rules for the treatment of prisoners which are being drafted by the Netherlands Ministry of Justice will be entirely in keeping with the revised standard minimum rules with the exception of one or two provisions such as the recommendation laid down in article 61, b of the draft...(See observations relating to Rule 61 b.)

## UNITED KINGDOM

The task of formulating these Rules has, in Her Majesty's Government's opinion, been carried out with great care and thoroughness by the International Penal and Penitentiary Commission, and Her Majesty's Government are in substantial agreement with the Rules which the International Penal and Penitentiary Commission have drawn up. The points on which they desire to comment are set out below. (See observations relating to Preliminary Observation 4, General Principles 3, 4, 7, 8, Rules 2, 8, 13, 14, 18, 19, 22, 23, 25, 27, 28, 32, 38, 49, 69 and 78.)

## SWEDEN

The rules now proposed are intended to replace the minimum rules for the treatment of prisoners which were first adopted by the Commission in 1929 and subsequently after revision, in 1933. In preparing the present draft the intention has been to attempt to describe the spirit in which the care and treatment of prisoners and similarly situated persons should be conducted. Consequently, it has been sought to avoid giving directions in detail - to what extent this attempt has been successful may of course be a matter of opinion - and instead to lay stress upon such essential rules of treatment as have been accepted and put into practice in countries having a well-developed prison system. While accepting this principle for its work the Commission has nevertheless had to take account of the fact that the countries where the rules will have to be applied vary greatly in point of economic resources, social welfare measures, geographical situation, density and composition of population, etc. The Commission has, however, sought to deal with this difficulty by pointing out by way of introduction - in Preliminary Observations, point 3 - that though the rules cannot be applied universally they should nevertheless serve to promote serious efforts to overcome the practical difficulties which may hinder their being put into practice at the present time. The document may thus be said to be a sign-post, not a decree. It should furthermore be noted that the rules by no means preclude various countries - the more developed countries especially - from experimenting with new ways and methods, so long as these are in harmony with the spirit of the rules and the general principles stated therein. Briefly, it may be said that the present draft constitutes a considerable step forward in comparison with earlier sets of rules. Insofar as serious objections may be raised against the draft these may

part I

probably be expected to come from countries which owing to deficient economic resources can see no prospect of being able to apply the rules, even approximately, within the near future. It would seem on the other hand that countries enjoying different conditions, such as Sweden, may be expected to give the draft their firm support. From the Swedish point of view it would seem that objection to the final draft need only be made in the two following respects. (See observations relating to Rules 4, 70 and 71.)

YUGOSLAVIA

The Yugoslav Government did not present any comments of a general nature. (See observations relating to Preliminary Observation 4, General Principles 1, 3, 7, Rules 3, 4, 5, 16, 17, 19, 24, 25, 26, 30, 35, 36, 38, 44, 58, 60, 61 and in part III.)

## part I

Middle East

## LEBANON

This draft offers excellent suggestions and, at the same time, leaves it to each country to organize its own prison system, for instance, in the case of the separation of prisoners into categories (Rule 3), and in the case of the accommodation of prisoners (Rule 4), where the individual cell is recommended, wisely enough, only for the night... As far as prisoners undergoing sentence are concerned, one cannot but approve the various measures envisaged with a view to facilitating their reformation and rehabilitation, such as the separation into categories, the individualization of treatment and the qualification that, in respect of the obligation to work, due regard should be had to physical fitness and aptitudes (Rules 48-57). Generally speaking, the whole draft seems to us to be excellent and does not call for any reservations of principle. The situation is unfortunately different as far as the implementation of the proposed suggestions is concerned, for this would require a considerable budgetary appropriation for prisons which, for the present, is beyond the capacity of Lebanon, and it is unlikely that our country is the only one which has to face this financial difficulty. A reform could in any case be implemented only step-by-step and it would, therefore, undoubtedly be useful to provide in the draft Standard Minimum Rules an order of priorities for the reforms to be considered. This would allow for the eventual establishment of a plan of prison reform which could be undertaken in successive steps as financial resources permit. (See also observations relating to Rule 3.)

Oceania

## AUSTRALIA

The Government of New South Wales has indicated that the general principles enunciated in the rules have already been adopted in that state and the arrangements detailed are fully observed, except in regard to the following rules. (See observations relating to Rules 59 and 73.)

The Chief Officer of the Commonwealth Police has perused the draft and has stated that the standards called for are similar to those operating in Australia at the present time.

## NEW ZEALAND

It is not desired to submit any comments on the principles embodied in these rules which are subscribed to by the appropriate authorities within New Zealand.

## II

### OBSERVATIONS PERTAINING TO SPECIFIC DISPOSITIONS OF THE DRAFT

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### PRELIMINARY OBSERVATIONS

1. The following Rules are not intended to describe in detail a model system of penal institutions. They seek only to set out the elements of what is generally accepted, in the best developed systems of today, as being good principle and practice in the treatment of prisoners and the management of institutions.

No observations.

2. The General Principles which precede the Rules 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 general consensus of contemporary thought.

No observations.

3. In the wide 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 General Assembly of the United Nations.

No observations.

4. In particular, difficulties may be found in the application of the Rules in systems of penal institutions of colonial and other dependent territories, especially where they are sparsely populated or under-developed. It is hoped, however, that metropolitan governments responsible for such territories will use their best endeavours to ensure that both the principles and the practice of the Rules are followed to the maximum extent compatible with the conditions and resources of these territories.

### UNITED KINGDOM

The extent to which the Rules can be applied in particular territories appear to Her Majesty's Government to depend not on the question whether the territory is self-governing or not, but on the question whether the conditions and resources of the territory, including such factors as sparse population or under-development, are

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preliminary  
observation 5

such as to give rise to difficulties in the application of the Rules. They therefore suggest that paragraph 4 should be amended to read as follows:

"In particular, difficulties may be found in the application of the Rules in systems of penal institutions of territories which are sparsely populated or underdeveloped. It is hoped, however, that governments responsible for such territories will use their best endeavours to ensure that both the principles and the practice of the Rules are followed to the maximum extent compatible with the conditions and resources of those territories."

#### YUGOSLAVIA

We are of the opinion that in the application of these rules no difference should be made between the system of penal institutions of the metropolitan and colonial or other dependent territories. It should be adopted as a principle that the system of penal institutions existing in the metropolis be applied also in its colonies, and that the metropolitan governments, under whose administration these territories belong, be bound to create there such conditions and means as are necessary to fully ensure the minimum conditions of the treatment of prisoners.

5. On the other hand, the Rules cover a field in which thought is constantly developing: they are not intended to preclude experiment, provided it seeks to further the purposes set out in the General Principles. It will always be justifiable for a central administration to authorize departures from the Rules in this spirit.

No observations.



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preliminary  
observations 6 and 7

6. 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'. Part II contains rules applicable only to the special categories of prisoners dealt with in the different sections.

No observations.

7. The Rules do not seek to regulate the management of institutions set aside for young persons such as Borstal institutions or correctional schools, but in general Part I would be equally applicable in such institutions.

No observations.

part II

general principle 1

## GENERAL PRINCIPLES

1. The purpose and justification of a sentence of imprisonment is to protect society against crime. The punishment inherent in the sentence is primarily the deprivation of liberty with the inevitable consequences of compulsory confinement and segregation from normal society. The purpose of the prison in carrying out that punishment should be to ensure, so far as possible, that its intention is fulfilled by the return of the offender to society not only willing but able to lead a normal well-adjusted and self-supporting life as a good member of society.

### PHILIPPINES

There is maintained in the Bureau of Prisons, under its General Budget, a Classification Board composed of the Director of Prisons or his representative, as Chairman, and the Chief Overseer, the Chief Medical Officer, the Manager of the Industrial Division or his representative, the Chaplain, the Psychiatrist, the Psychologist, the Sociologist, and the head of the Educational Section, as members. The members of this Board make and submit their individual reports on each case submitted to them, and on the basis of these reports, the Classification Board determines the suitable treatment for the particular inmate and the vocational training to which he should be subjected for the purpose of assigning him to a particular work. To meet the needs of the Classification Board and in order to insure a highly specialized and technical classification system in the diagnosing of the individual prisoner, this Bureau is taking steps toward the establishment of a Classification Division. In the forthcoming budget of this Bureau, therefore, a classification division is included. The aim of this division is to study the individual, mental and behaviorial problem of each prisoner with the aim in view to isolating the factor or factors that have led to the criminality of each individual prisoner and to make them as the basis for their individual treatment.

## YUGOSLAVIA

It may appear from the thesis exposed in paragraphs 1 and 7, General Principles, that in the case of a person of full age, "to protect society against crime" is the main object of carrying out a punishment by serving a sentence in prison, whereas in the case of a minor this object is his "re-education and rehabilitation." As to the punishment of deprivation of liberty, we are of the opinion that no difference in the purpose of that punishment should so pointedly be made between full-aged and minor persons, attributing to the punishment of full-aged persons rather a character of revenge, whereas to that of minors a character of re-education and rehabilitation. Each punishment must have one purpose: It should be in all cases primarily re-education, regardless of whether it is applied to a full-aged or minor offender. The internal regulations in institutions for full-aged prisoners should be different from those in institutions for minor persons, and different methods of re-education have to be applied. This implies a special elaboration of rules regarding these two groups of prisoners.

2. To this end, the institution should utilize all the remedial, educational, moral and spiritual forces which are appropriate and available, and should seek to apply them according to the special needs of each prisoner.

## PHILIPPINES

See observations under General Principle 1.

3. The régime of the institution should seek to minimize any differences between the life inside its walls and normal life outside which tend to lessen the self-responsibility of the prisoners or the respect due to their dignity as human beings.

Before the end of the punishment it is desirable that the necessary steps be taken to ensure for the Prisoner a gradual return to normal 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 effective supervision.

## part II

## general principle 3

## PHILIPPINES

The dignity of the human being is a principle which this Bureau is trying to diffuse as much as possible and to apply to actual cases. A system of gradual concession of privileges to prisoners is adopted in order to minimize the difference between prison life and the normal activity outside prison, so that upon the termination of his sentence, a prisoner shall have shown, upon his prison record, that he possesses the necessary self-discipline to occupy his position in society. This is carried out by granting the prisoner the privilege of a "living-in", i.e., working outside the prison compound without guard and returning to the compound after working hours. Still later, the prisoner is granted the privilege of a "living-out", i. e., working outside of prison walls without guard and actually residing in the prison reservation. In the penal colonies where a more liberal custodial privilege is being exercised, the colonists are allowed to go about their work without any guards, bound only by the precepts of the "honor system". To make the life of the colonists as normal as possible, they are allowed, under Sections 1714 and 1715 of the Revised Administrative Code, to transfer their families to the colonies as soon as they reach that stage of trust and privilege prescribed in the prison rules and regulations. The subsistence of the family of a colonist may be derived from the land cultivated by the colonist when it produces enough to take care of their maintenance; otherwise, from the general products of the colony, including a reasonable amount of clothing and ordinary household supplies, with the understanding that the colonist concerned will return the corresponding value of these accommodations to the administration.

## UNITED KINGDOM

It is suggested that the first sentence of the second sub-paragraph should be amended to read as follows: "Where the sentence is of a suitable length, it is desirable that the necessary steps be taken before the end of the punishment to ensure for the prisoner a gradual return to normal life in society". The special pre-release regime advocated in this sub-paragraph is not appropriate where the sentence is of short duration.

## YUGOSLAVIA

The Yugoslav legislation now in force does not admit the institution of transitory regime before the release, and considers it unnecessary. It adopted the principle of the possible release on probation of the prisoner who served one-half of his sentence, and in certain cases even earlier, provided that the effect of the correction has been such that it may be assumed that in future he will commit no crimes. Attributing to the punishment its proper significance, the Yugoslav Criminal Code defined the aim of the punishment to be the prevention of socially dangerous activities, the preventing of the offender from committing crimes, and his re-education, as well as an educational influence upon others not to commit crimes. The purpose of the punishment contains, consequently, two essential elements: prevention of crime and educational influence, or in other words, the elimination of the socially dangerous activity through constraint and education. The general line of the system of punishment applied in the Federative People's Republic of Yugoslavia is confirmed by the provisions of the Law on the application of punishments, security and educational and correctional measures, as well as by Regulations of the penitentiary institutions containing, in accordance with this principle, all necessary elements for the application of the punishment with a view to the re-educating and rehabilitating of the prisoner so that he may become a useful member of the society. For that purpose permanent measures for re-education are applied by the administration of penitentiary and correctional institutions and by special groups of educators whose main task is the moral, professional and intellectual re-education of prisoners.

part II

general principle 4

4. The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it. The normal agencies of the community 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 the civil rights, social insurances, and other social benefits of prisoners.

INTERNATIONAL LABOUR ORGANIZATION

It is suggested that, in the last sentence, the expression "social insurances" should be replaced by "social security rights".

PHILIPPINES

This Bureau allows free intercourse with social and civic agencies which lend aid to the inmates towards their social and moral rehabilitation. The application of this principle, however, is limited to a certain extent depending on the availability of funds. At present there is no social worker employed by this Bureau so that in the majority of cases all social work is handled by the Prison Chaplain and by such social workers as may voluntarily offer their services to the inmates. Be that as it may, this Bureau has taken steps towards enhancing the rehabilitation of the inmates by including in its new budget the creation of the positions of three professionally trained social workers that will make up the personnel of the proposed social service unit in this Bureau.

## UNITED KINGDOM

The term "civil rights" is very wide and would include some rights (e.g. the right to exercise the franchise) which the prisoner may be unable to exercise during the period of his imprisonment. It is accordingly suggested that the words "to the maximum extent compatible with the deprivation of liberty resulting from imprisonment" should be added after the word "safeguard."

5. The medical services of the institution should seek to remove any physical or mental defects which may hamper a prisoner's rehabilitation. In particular, they should include a psychiatric service for the diagnosis and, in proper cases, the psycho-therapeutic treatment of states of mental abnormality. It is desirable that a separate institution, under medical management, should be used for the observation and treatment of the mentally abnormal. It is also desirable that steps should be taken, by arrangement with the appropriate authorities, to ensure the continuation of treatment after release and the provision of social-psychiatric after-care.

## WORLD HEALTH ORGANIZATION

The opening sentence of this paragraph might state the essential objective more thoroughly if it were changed to read: "The medical services of the institution should seek to detect and remove any physical or mental defects or illnesses which may hamper a person's rehabilitation."

## PHILIPPINES

This Bureau has provided for the treatment of prisoners suffering from physical or mental defects which may hamper their rehabilitation. In the past, this Bureau had availed itself of the part-time services of a psychiatrist from the office of the Board of Pardons and Parole. Since January of this year, the Bureau of Prisons has been employing a full-time psychiatrist who is now attending to all psychiatric cases. It is observed that the relatively small number of psycho-neurotic cases in this Bureau does not justify the creation of a separate institution for the treatment of these cases. All such cases requiring hospitalization are brought to the National Psychopathic Hospital.

part II

general principle 6

6. a) Since the fulfilment of these principles requires individualization of treatment and a flexible system of classifying prisoners in groups for this purpose, it is desirable that such groups should be distributed in separate institutions suitable for the treatment of each group.
- b) These institutions need not provide maximum security for every group. It is desirable to provide varying degrees of security according to the needs of different groups. Open institutions, which 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.
- c) It is desirable that the number of prisoners in maximum or medium security 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.
- d) It is equally undesirable to maintain prisons which are so small that proper facilities cannot be provided.

PHILIPPINES

Paragraph (a): In order to set a basis for the care of social-psychiatric cases, the Classification Division, ~~when~~ created as already proposed, will classify each inmate under certain groups for distribution to separate institutions, prescribing the necessary treatment for each group.

Paragraph (b): The question of security will vary according to the needs of different groups. As a matter of fact, in the application of this principle, the Bureau of Prisons is operating its penal colonies on the basis of the honor system ...



part II  
general principle 7

Paragraph (c): Under present conditions, the practicability of operating the institutions in this bureau with a population of not to exceed 500, as set out in the Standard Minimum Rules, is quite difficult for the reason that this Bureau cannot at present meet the operational expenses. However, to implement the provision of this Rule, this Bureau will undertake the individualization of treatment and expand its plant accordingly.

7. It is desirable in principle that young persons<sup>1)</sup> should not be sentenced to imprisonment. Where this is unavoidable, every precaution should be taken to separate them from older prisoners, if possible in separate institutions accommodating no more than two-hundred inmates and their re-education and rehabilitation should be the sole aims of the régime.

#### PHILIPPINES

The laws of this country have given due consideration for juvenile offenders. A minor of either sex under 16 years of age is accorded a suspended proceeding and is committed to the care of the Social Welfare Administrator or his representative, who reports on the progress of the minor under his care. The minor is either released or returned to the Commissioner of Public Welfare, depending on whether he has been reformed or not. Minor delinquents are not confined in the Bureau of Prisons but are committed to such institutions as the Welfareville, the Boys' Town, and other civic institutions. As for the youthful offenders confined in the Bureau of Prisons, they are kept in separate apartments from those housing adult prisoners.

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1) The maximum age for young prisoners must be fixed according to the legislation of each country, but should include at least all young persons who come within the jurisdiction of juvenile courts.

part II

general principle 8

UNITED KINGDOM

It is suggested that the word "primary" should be substituted for the word "sole" in the last line of this paragraph.

YUGOSLAVIA .

See observation under General Principle 1.

8. A humane, efficient and well-organized system of after-care is essential to the success of a system of penal institutions. It should be recognized that the responsibility of the system does not cease with the liberation of a prisoner, but continues until he is re-established as a self-supporting citizen.

PHILIPPINES

This Bureau believes in the wisdom of extending after-discharge care for its wards. However, the conditions obtaining in this country are far different from those in other countries in the sense that a released prisoner will always find a home to which to take refuge after discharge, instead of finding himself at the mercy of a jobless life. In fact, in this country, the farms, the fisheries and other rural activities in provinces offer ample opportunity for employment of released prisoners if they are willing to work. However, in spite of the non-existence of the unemployment problem among released prisoners and the lack of any organized agencies to help released prisoners secure employment, it is expected that with the aid of responsible leaders of the community and social workers, the favorable attitude towards re-establishing released prisoners may be spearheaded in the public conscience.

UNITED KINGDOM

The last two lines of this paragraph, strictly interpreted, imply that the responsibility of the penal system for the welfare of a released offender may be of indefinite duration. The aim should be the re-establishment of the offender, but this may not always be achieved. It is suggested that the true intention of the paragraph might more clearly be expressed as follows:

"It should be recognized that the responsibility of the system does not cease with the liberation of a prisoner. There should, therefore, be a humane, efficient and well-organised system of after-care directed towards the re-establishment of prisoners as self-supporting citizens."

part II  
rule 1

## PART I. RULES OF GENERAL APPLICATION

### Basic Principle

1. The following rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, religious or political belief, social standing or otherwise.

On the other hand, it is necessary to respect so far as possible the religious observances and rules of conduct of the group to which a prisoner belongs.

### DIVISION OF HUMAN RIGHTS

- (a) Although the Division does not consider that specific mention of sex should be made in the catalogue of the grounds on which there should be no discrimination, it is of the opinion that there should be some reference in the Basic Principles to the treatment of women prisoners, especially since several of the Rules (e.g., Rules 3, 19, and 46) contain provisions dealing with them. It may be thought advisable to insert in the Draft Rules a rule similar, mutatis mutandis, to Article 16 of the Prisoners of War Convention signed at Geneva on 12 August 1949 and reading as follows:

"Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria."

or to Article 27 of the Treatment of Civilian Persons Convention of the same date which reads as follows:

"Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault."

"Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the party to the conflict in whose power they are, without any adverse distinction, based, in particular, on race, religion and political opinion."

- (b) In order that the basic principle expressed in Rule 1 should conform as nearly as possible to the non-discrimination provisions of the Charter of the United Nations and the Universal Declaration of Human Rights, this Division suggests that the word "language" should be inserted in Rule 1 after the word "colour."
- (c) For the same reason there should be some reference to "national origin" in the list of grounds for which there should be no discrimination.

#### Register

- 2. a) 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:
  - (1) information concerning his identity;
  - (2) the reasons for his commitment and the authority therefor;
  - (3) the day and hour of his admission and discharge.
- b) No prisoner shall be received in an institution without a valid commitment order of which the details have been entered in the register.

#### UNITED KINGDOM

Paragraph (a): It is suggested that the words "and hour" in sub-paragraph (3) should be omitted as being unnecessarily detailed for the purpose of these Rules.

Paragraph (b): It is suggested that this sub-paragraph be replaced by the following:  
(i) a new Rule, to take its place between the present Rules 1 and 2, as follows:

part II  
rule 3

"Admissions

No prisoner shall be received in an institution without a valid commitment order."

(ii) an additional sub-paragraph (4) to the present Rule 2(a) as follows:

"(4) Particulars of the commitment order."

Separation of Categories

3. 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 convicted prisoners;
  - (d) young prisoners shall be kept separate from adults, except where a departure from this rule is authorized by the central administration in the interest of the young prisoners.

CANADA

Paragraph (d): Complete segregation of young prisoners from adults is limited by the accommodation facilities at present available.

YUGOSLAVIA

In addition to categories provided under (a), (b), (c) and (d), it would be necessary to establish under (e) the category of pregnant women prisoners and under (f) the category of alcoholics.

(1) The separation of the category of pregnant women and their accommodation in a special institution is based on the principle of humanity and of medical necessity. Experience and practice have shown that such prisoners, when serving their sentence together with other prisoners, cannot, even in the most favourable circumstances, be given the necessary medical treatment and moral conditions needed by a lying-in woman and her baby. In our system of application of punishment, pregnant women prisoners are accommodated in a special institution, a house whose windows are not barred and with a minimum of security measures. Prisoners from all prisons situated in the territory of the Federative People's Republic of Yugoslavia are transferred to that institution three months before delivery. They remain there until the baby has accomplished one year of age, except in the case of the prior expiration of their sentence. There are special wards in this institution supplied with all requirements for medical assistance at the delivery, operating theatres, bath-rooms, dining-rooms, kitchens, nurseries for babies, a hall for cultural and educational purposes, a garden and all other commodities required for the recreation of mothers and children. Six weeks before and six weeks after the delivery, the lying-in women convicts are excluded from any hard work. Mothers have the possibility to care for their children themselves. Both they and their babies are under supervision of educational and medical staff.

(2) Besides this, we are of the opinion that also the category of alcoholics should be added with the purpose of isolation, prevention and treatment. Considering that their presence among other prisoners represents a medical and social problem, we are of the opinion that they should be placed into a special institution or separate divisions of the prisons where other prisoners are detained.

part II  
rule 4

LEBANON

The enumeration of the different categories calls for an observation. Under letter (c), the draft rightly indicates that "persons imprisoned for debt and other civil prisoners shall be kept separate from criminal offenders." This principle of separation is undoubtedly worthy of approval, but among the criminal offenders it would also be desirable to separate the prisoners with an honourable background who committed an offence through negligence (e.g., unintentional homicide) from the ordinary offenders (e.g., robbers). It should be noted, however, that the different categories indicated in the Rules are mentioned only as examples for the purpose of illustrating the principle mentioned above (namely, that the various categories of prisoners have to be placed in different institutions particularly taking into account their background).

Accommodation

4. a) Where sleeping accommodation is in individual cells, each prisoner shall occupy a cell by himself. If, for special reasons, such as temporary overcrowding, it becomes necessary for the central administration to make an exception to this rule, it is not desirable to have only two prisoners in a cell.
- b) 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, except in institutions with a system of trust.

SWEDEN

Paragraph (a): The draft says that it is desirable to place more than two prisoners in a cell, if for special reasons it is found necessary to have more than one prisoner in the same cell. This proposal has evidently been made with a view to preventing homosexuality. Many prison experts consider that this is easier to prevent if there are, for example, three prisoners instead of two in the same cell. In the opinion of the Board the fears in question are exaggerated. From



the Swedish point of view it may also be mentioned that in Swedish prisons most of the cells are so small that floor-space and air-space are inadequate if three prisoners are put in the same cell. Furthermore, double rooms - in addition to single rooms and rooms for three or more persons - are very common in the open prison colonies in Sweden; although it is not clearly stated, "cell" is probably intended to mean any accommodation for prisoners not sleeping in a dormitory. There is no reason for abandoning the system of double rooms in prison colonies in Sweden.

#### YUGOSLAVIA

The principle adopted by the Draft for sleeping accommodations in cells is contrary to the principle of humanity and objectionable from the educational and medical viewpoint. It is contrary to the principles of the General Rules on the treatment of prisoners, because these Rules are based on re-education aiming at the strengthening of their social and other moral feelings. Through isolation, prisoners become individualists and psychically insane persons; afraid of the society, they become dull and lose self-confidence. Only in exceptional cases might isolation be seen as a measure necessary to achieve the purpose of the punishment. But even such isolation should not always mean the isolation of one person in one cell, but, normally, the segregation of one group of prisoners from another group. This should be provided for by law, and the term thereof should not be longer than one-fourth of the adjudicated imprisonment and in no case longer than three years. Such are the provisions of our legislation in force.

5. 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, lighting, heating and ventilation.

YUGOSLAVIA

The accommodation of pregnant women prisoners (see Rule 3) should correspond to the accommodations and medical prescriptions applied in gynecological hospitals. The premises for the accommodation of the pregnant women prisoners should comprise among others a hall for education, culture and recreation, a library, hall for music and lectures, a cinema and other rooms for recreation.

6. 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.

No observations.

7. 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.

No observations.

8. The bathing installations shall be adequate to enable every prisoner to have a bath or a shower at least once a week.

UNITED KINGDOM

It would appear to be a sufficient compliance with this Rule if the bathing installation provided nothing but cold water. While this may be sufficient in certain climates it is suggested that for a rule of general application it would be proper, in order to ensure that hot water is provided where necessary, to add the words "at a temperature suitable to the climate" after the word "shower."

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

No observations.

### Personal Hygiene

10. 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.

No observations.

11. 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 of the beard and to enable men to shave regularly.

No observations.

12. Every prisoner shall be required to have a bath or a shower at least once a week.

No observations.

### Clothing and Bedding

13. a) Every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing, including underclothing, suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating.
- b) The clothing provided shall be clean when issued and kept in proper condition. Underclothing shall be washed regularly.
- c) In exceptional circumstances, such as appearance in court or participation in his marriage ceremony, a prisoner shall be allowed to wear his own clothing.

### UNITED KINGDOM

Paragraph (b): It is suggested that after the word "regularly" where it occurs in these Rules, the words "and often enough to secure its cleanliness" should be added, since the emphasis should be as much on the frequency as on the regularity of the washing.

14. 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. Underclothing shall be changed and washed regularly.

part II  
rules 15 and 16

UNITED KINGDOM

It is suggested that after the word "regularly" where it occurs in these Rules, the words "and often enough to secure its cleanliness" should be added, since the emphasis should be as much on the frequency as on the regularity of the washing.

15. Every prisoner shall 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.

No observations.

Food

16. a) Every prisoner shall be provided with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.
- b) Every prisoner shall be able to obtain drinking water at all proper times.

YUGOSLAVIA

In the interests of the health and appropriate treatment of lying-in women prisoners and of the appropriate care for the education and health of the child, it is necessary to provide also for special food, in addition to the hygienic and medical conditions. For the purpose of special protection granted by our legislation to pregnant women prisoners and to their children, this is regulated with more details in the Regulation of the Confinement House for lying-in women prisoners. Article 12 of these Regulations provides that special food shall be prepared there for healthy and sick patients as well as for infants. Diet for infants and sick patients is prescribed by the physician who has the duty to supervise, together with the director of the Confinement House, the quality and the taste of the food.

### Exercise and Sport

17. a) Every prisoner who is not employed in out-door work shall have where practicable one hour, and in any case not less than half-an-hour, of exercise in the open air daily if the weather permits.
- b) Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise, and where possible space and equipment therefor should be provided.

### YUGOSLAVIA

Paragraph (a): We are of the opinion that one hour of exercise in the open air daily is not sufficient for a prisoner who is not employed in out-door work, and that, from a medical view oint two hours would be necessary and should be obligatory. One hour of quiet walk in the morning according to the schedule and one hour of free stay in open air (sun-bath, gymnastics, etc.) in the afternoon.

Paragraph (b): From the Draft text it can be concluded that there might exist institutions for minors even without a place for gymnastics and sport, since it is stated in the text that such room shall be provided "when possible." Our opinion is that each institution for minors should be obliged to provide for a place reserved to that purpose.

### Medical Services

18. a) At every institution there shall be available the services of a qualified medical officer who should have some knowledge of psychiatry.
- b) Sick prisoners who require specialist treatment shall be transferred either to specialist institutions or to civil hospitals. Where hospital facilities are provided in an institution it shall be equipped and furnished in a manner proper for the medical care and treatment of sick prisoners and staffed by suitably trained officers.

WORLD HEALTH ORGANIZATION

Paragraph (a): It would be desirable to add at the end of this paragraph: "These services should be organized in close and appropriate relationship to the general health administration of the community or nation."

UNITED KINGDOM

Paragraph (b): It is suggested that the second sentence of this paragraph should for greater clarity be amended to read:

"Where hospital facilities are provided in an institution, their equipment and furnishing shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitably trained officers."

19. a) In women's institutions there shall be special accommodation for the proper treatment of pregnant women, but wherever practicable arrangements shall be made for children to be born in a hospital outside the institution.
- b) Where nursing infants are allowed to remain in the institution with their mothers they shall be placed in a crèche.

UNITED KINGDOM

Paragraph (b): As at present drafted, this paragraph is not sufficiently precise, and might be interpreted as implying that infants ought to be separated from their mothers. The following alternative wording is accordingly suggested:

"Where nursing infants are allowed to remain in the institution with their mothers provision shall be made for a suitable place, staffed by properly qualified persons, in which the infants shall be placed when they are not in the care of their mothers."

YUGOSLAVIA

For reasons given in Paragraphs 3, 5, and 16, we are of the opinion that special institutions should be organized for pregnant women and that they should be supplied with all necessary equipment, and where it is not possible to do so, that pregnant women prisoners should be given the necessary treatment in a hospital without the prison. Pregnant women should be separated from mothers with children. Children should be accommodated in a special room supplied with all necessary hygiene equipment, and mothers should be given the possibility to nurse their children themselves.

20. The medical officer shall see and examine every prisoner as soon as possible after his admission, 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 defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.

No observations.

21. a) 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.
- b) The medical officer shall report to the Director whenever he considers that a prisoner's mental or physical health will be injuriously affected by continued imprisonment or by any condition of imprisonment.

No observations.

22. The medical officer shall regularly inspect and advise the Director upon
- a) the 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.

part II  
rules 23 and 24

### Disciplinary Offences and Punishments

23. The following shall always be determined either by the law or by the lawful decree 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 award such punishment.

No prisoner shall be punished except in accordance with the terms of such law or decree.

#### UNITED KINGDOM

It is suggested that a new Rule should be inserted before Rule 23 as follows:

"No prisoner shall be employed in any disciplinary capacity."

It is suggested that Rule 49 would be better placed as a General Rule applicable to all categories of prisoners before the present Rule 23.

In view of the two new Rules proposed for insertion at this point, it is suggested that the heading of this Section of the Rules should be changed to "Discipline and Punishment."

It is suggested that the words "and to determine or mitigate such an award" should be added at the end of item (c) of the present Rule 23.

24. a) 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.
- b) Where necessary and practicable the prisoner shall be permitted to make his defence through an interpreter.



## DIVISION OF HUMAN RIGHTS

In view of the fact that punishments imposed on prisoners who are undergoing their sentences may create a sense of hostility unless they not only are just but also appear to be just and in view also of the fact that beyond this immediate significance such punishments may, and frequently do, have the effect of cancelling any remission of sentence to which prisoners may be entitled it is important that there should be some provision guaranteeing the right of a prisoner charged with an offence above a certain degree of gravity to trial by an impartial person(i.e., someone not connected with the administration of the prison). There should also be a provision allowing for an appeal against any disciplinary punishment to an authority superior to the one which imposed the punishment.

## YUGOSLAVIA

Considering that the respective offences are those against the provisions of the institution Regulations, working discipline and the correct behaviour towards the officials of the institution and towards other prisoners, we do not consider it necessary to grant the prisoner the defence through an attorney. The introduction of such an institute would hamper the normal functioning of the life in a prison and of the necessary application of disciplinary measures for such minor offences.

25. 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.

## CANADA

Corporal punishment may be inflicted upon the authorization of the Commissioner (of Penitentiaries) after review of the evidence by him in the case of violent assault upon prison officers or other inmates, or for repeated serious breaches of prison discipline where no other method of punishment appears to be effective.

#### UNITED KINGDOM

Section 54 of the Criminal Justice Act, 1948, which applies to England and Wales, and Rule 45 of the Prison Rules 1949 made thereunder, make provision for the corporal punishment of male prisoners for the offences of mutiny, incitement to mutiny and gross personal violence to an officer of the prison. The Act and Rules lay down safeguards relating to the manner of award and execution of this form of punishment, which may only be carried out after confirmation by the Secretary of State personally. The position is similar in Northern Ireland, but not in Scotland, where there is no provision under which corporal punishment may be inflicted. This Rule could only be applied in England and Wales and Northern Ireland subject to the limitation mentioned.

#### UNION OF SOUTH AFRICA

The imposition of corporal punishment, where considered necessary by the officer presiding at the trial, is legally permissible in respect of males. No change of the Law in this regard is contemplated. Such sentences are subject to confirmation by a Judge of the Supreme Court before corporal punishment can be inflicted.

#### YUGOSLAVIA

In the same line with the mentioned punishments we consider that the reduction of diet and corporal punishment are inhuman and degrading and that they should be categorically prohibited as punishments for disciplinary offences. In this connexion other methods which may be prejudicial to physical or mental health and which are enumerated further in point 26 of the Rules of General Application should be likewise abolished, regardless of the findings of the medical officer as to whether the prisoner is fit to sustain them or not. It is only by the adoption of this stand that the human dignity of the prisoner can be maintained as well as his health, and that a better guarantee for his re-education can be reached at the same time.

26. a) Punishment by close confinement, reduction of diet, or any other method that may be prejudicial to physical or mental health shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.

- b) The medical officer shall visit daily prisoners undergoing such punishments and shall advise the Director if he considers the termination of the punishment desirable on grounds of physical or mental health.

YUGOSLAVIA

See observation under Rule 25.

Restraints

27. Instruments of restraint, such as handcuffs, chains and strait-jackets, shall never be applied as a punishment. They shall only be used in the following circumstances:

- a) for precaution against escape during removal, provided that they shall be removed when the prisoner appears before a judicial authority.
- b) On medical grounds by direction of the medical officer.
- c) By order of the Director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property. In such instances the Director shall at once consult the medical officer. A report shall be made to the central administration.
- d) Instruments of restraint must not be applied for any longer time than is necessary.

DIVISION OF HUMAN RIGHTS

The Division is of the opinion that paragraph (b) of this rule should be omitted.

UNITED KINGDOM

It is suggested that item (d) should be removed to Rule 28, where it might form a sub-paragraph (a), the present Rule 28 becoming sub-paragraph (b).

- 28. The patterns and manner of use of instruments of restraint shall be decided by the central administration.

part II  
rules 29 and 30

UNITED KINGDOM

See observations under Rule 27

Information to and Complaints by Prisoners

29. 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.

No observations.

30. a) Every prisoner shall have the opportunity each day of making requests or complaints to the Director of the institution or the officer authorized to represent him.
- b) Every prisoner shall be allowed to make a request or complaint without censorship to the central prison administration, the judicial authority or other proper authorities, through approved channels.

YUGOSLAVIA

In order to control the conditions in institutions and to protect the rights of the prisoners and of their interests guaranteed by the law, we are of the opinion:

- (a) that the national law should provide for an obligatory inspection of penitentiary institutions fixing the number of inspections to be made in the course of one year.
- (b) that the prisoners have the right to talk to the members of the inspection without the presence of the officials of the institution; and
- (c) that the members of Parliament may supervise and control the work of the state organs in penitentiary institutions.

Contact with the Outside World

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

No observations.

32. a) Prisoners belonging to a foreign nation shall be allowed to communicate with the diplomatic and consular representatives of the State to which they belong.
- b) Nationals of states without diplomatic or consular representation in the country shall be authorized to communicate with the diplomatic authorities of the State which takes charge of their interests.

DIVISION OF HUMAN RIGHTS

Provision should be made in this Rule for prisoners who belong to no State or who belong to a State unwilling to extend diplomatic protection to them. They should be allowed to communicate with any national or international authority whose task it is to protect refugees and stateless persons. The Division has particularly in mind the Office of the High Commissioner for Refugees.

UNITED KINGDOM

Paragraph (a) of this Rule (particularly in view of the contrast between its terms and those of Rule 31) appears to contemplate that any prisoner who is a foreigner should have an unlimited right of communication, at any time and about any thing with the diplomatic or consular representative of his country. It is suggested that after the word "allowed" there should be inserted the words "reasonable facilities."

33. Means shall be provided for keeping prisoners regularly informed of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or any similar means.

part II  
rules 34 and 35

#### UNION OF SOUTH AFRICA

The only convicted prisoners who are permitted to receive newspapers and to hear wireless news transmissions are those who have been concentrated at "half-way house" institutions for the concluding portion of their sentences in preparation for their discharge from imprisonment. Prisoners who are awaiting trial and Civil Debtors are, however, permitted to receive newspapers at whatever gaol they may be incarcerated.

#### Books

34. 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.

No observations.

#### Religion

35. a) If the institution contains a sufficient number of prisoners of the same religion a regular spiritual minister shall be appointed for them. When the number of prisoners justifies it, a full-time minister shall be appointed.
- b) A minister so appointed shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his religion at proper times.
- c) Access to a qualified representative of his religion shall not be refused to any prisoner.

#### JAPAN

Is the Rule to be interpreted to call for the appointment of a regular spiritual minister with the status of government official for a sufficient number of prisoners of the same religion? Such a rule had been in force in Japan for many years till 1946. However, Article 20 of the New Constitution, relating to freedom of religion, prohibits state protection of any specific religion or religious activities. We have today private ministers for this service. Accordingly, it is deemed desirable to adopt a system under which each group of the same religion, large or small, is looked after by a suitable religious organization or minister.

## YUGOSLAVIA

In view of the fact that through various forms of cultural and educational work: schools, professional and other courses, cultural and artistic groups, etc., which are successfully guided by educators, specialists, experts and pedagogues, a maximum of all positive professional and intellectual qualities is being developed, we are of the opinion that there is no need for religious ministers. Religious ministers are not in a position to perform the mentioned tasks and a practical need for them is neither felt nor does it exist, so that there is no need for them to be appointed as permanent prison officials. They could possibly perform their functions from time to time only.

36. Every prisoner shall be allowed to satisfy the needs of his religious life, so far as practicable, by attending the services provided for prisoners of his religion, receiving visits from his appointed minister, and having in his possession the books of religious observance and instruction of his religious denomination.

## YUGOSLAVIA

See observations under Rule 35.

## Retention of Prisoner's Property

37. a) 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 kept, and it shall be signed by the prisoner. Steps shall be taken to keep them in good condition.

- b) On the liberation of the prisoner all such articles 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 returned to him.
- c) Any money or effects received for a prisoner from outside shall be treated in the same way.
- d) If a prisoner brings in any drugs or medicine the medical officer shall decide what use he may make of them.

No observations.

Notification of Death, Illness, etc.

38. a) 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 wife or husband if the prisoner is married, or the nearest relative and shall in any event inform any other person whom the prisoner has requested should be so informed.
- b) A prisoner shall be informed at once of the death or serious illness of any near relative. In case of dangerous illness or death of a near relative of a prisoner, he may be authorized, whenever circumstances allow it, to go to his bedside either under escort or alone.
- c) On his transfer to another institution a prisoner shall be allowed to inform his family.

CANADA

Paragraph (b): It is not normal practice to release prisoners undergoing sentence to visit relatives who are dangerously ill or to attend the funerals of relatives who have died.

UNITED KINGDOM

Paragraph (b): This paragraph would seem to imply that prisoners ought, as a matter of principle, to be allowed to go to the bedside of near relatives who have died. While Her Majesty's Government agree that it is desirable that arrangements should be made, whenever circumstances so allow, for a prisoner to go to the bedside of a near relative who is dangerously ill, and this has long been the practice in the United Kingdom, the same considerations do not, in their view, apply in the case



of the death of a relative, and they do not consider that there should be a general requirement in principle to release prisoners in the latter case. They accordingly suggest that the words "or death" should be omitted from this paragraph. In doing so, they would point out that the omission of these words would still leave it open to the authorities of any country where this practice is thought to be desirable to permit it, but it does not appear that the question is of such importance that the adoption of this principle should be required in countries where another view is taken.

#### YUGOSLAVIA

Paragraph (a): We are of the opinion that it should be made possible that the body of a dead prisoner could be handed over to his near relatives and that the authorization thereto could be granted by the competent authority. The possibility of delivering the body of the dead prisoner, i.e., the authorization thereto, should be provided for by the national law.

#### Removal of Prisoners

39. 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 or publicity in any form.

No observations.

#### Institutional Personnel

40. a) The central administration shall provide for the careful selection of every grade of the personnel, since it is on their integrity, humanity, capacity and personal suitability for the work that the proper administration of the institutions depends.
- b) The central 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.

- c) To secure the foregoing ends, personnel shall be appointed on a full-time basis with security of tenure subject only to good conduct, efficiency, and physical fitness. Their salaries shall be adequate to secure and retain suitable men and women, and their conditions of service shall be favourable in view of the exacting nature of the work.

PHILIPPINES

Paragraph (b): The objective of the prison administration to convince the public that its task is a social service of great importance has been adhered to consistently. The Administration is making a herculean effort to overcome the misconception of the general public that a prison is but a place of confinement and punishment of criminals. Although it is not easy to eradicate from the public mind the prejudice which for centuries had been theirs with respect to prisoners and prisons, efforts are being made by this Bureau to show in a positive manner that the reformation and rehabilitation of the inmate are of great benefit not only to the individual prisoner after his release but also to society.

41. Before entering on duty, the personnel shall be given a course of training in their general and specific duties. In order to maintain and improve their professional capacity, this training shall be followed by further courses at suitable intervals.

No observations.

42. 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 command their respect.

No observations.

43. a) The Director of an institution shall be fully qualified for his task by character, administrative ability and training and experience in this field.

- b) He shall not be appointed on a part-time basis.

- c) He shall reside on the premises of the institution or in its immediate vicinity.

- d) When two or more small institutions are under the care of one Director, he shall visit all at frequent intervals. Each of these institutions shall have at its head a responsible resident official.

No observations

44. a) The Director, his deputy, and so far as possible the other personnel of the institution shall be able to speak the language of the majority of the prisoners.
- b) Whenever necessary, the services of an interpreter shall be used.

YUGOSLAVIA

Paragraph (b): We are of the opinion that not only the Director but his deputy as well as the whole staff of the institution should know the language of the majority of the prisoners.

45. a) 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.
- b) 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.

No observations.

46. a) In an institution for men and women that part of the institution set aside for women shall be in the charge of a responsible woman officer who shall have the custody of the keys of all that part of the institution.
- b) To avoid the possibility of malicious allegations, it is desirable that male members of the staff shall not enter the part of the institution set aside for women unless accompanied by a woman officer.
- c) 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 with women prisoners.

No observations.

part II

rules 47 and 48

47. An officer of the institution shall not, in his relations with the prisoners, use force except in self-defence or in cases of attempted escape or persistent insubordination. When he has recourse to force he must use no more than is strictly necessary.

DIVISION OF HUMAN RIGHTS

The Division wishes to invite the consideration of the Division of Social Welfare of the advisability of deleting the expression "or persistent insubordination."

PART II. RULES APPLICABLE TO SPECIAL CATEGORIES

A. PRISONERS UNDER SENTENCE

General Principles

- 48.a) The treatment of persons sentenced to imprisonment 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 liberation, and to fit them to do so.

b) To these ends, all appropriate means shall be used, including education, vocational training, 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 liberation.

- c) For every prisoner with a sentence of suitable length, as soon as possible after his admission, the Director of the institution shall be furnished with full reports on all the foregoing matters, and such reports shall always include reports by a medical officer, wherever possible qualified in psychiatry, on the physical and mental condition of the prisoner.

INTERNATIONAL LABOUR ORGANIZATION

Paragraph (b): It is suggested that "vocational guidance" should be added between "education" and "vocational training," and that "employment counselling" should be added between "vocational training" and the words "physical development."

PHILIPPINES

Paragraphs (b) and (c): The treatment set forth in these paragraphs to the end that prisoners shall lead a law-abiding and self-supporting life after their liberation, will be implemented and applied when the new Classification Division shall have been established and operated in this Bureau.

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

UNITED KINGDOM

It is suggested that Rule 49 would be better placed as a general Rule applicable to all categories of prisoners before the present Rule 23.

50. The treatment of prisoners shall be such as will encourage their self-respect and develop their sense of responsibility.

No observations.

51. It is an essential part of the social rehabilitation of a prisoner that any mental or physical defects which might handicap his rehabilitation shall so far as possible be relieved before his liberation, and all necessary medical, surgical and psychiatric services shall be provided to that end.

INTERNATIONAL LABOUR ORGANIZATION

It is suggested that the words "and vocational" should be added after the word "psychiatric" (and consequently that the word "and" between "surgical" and "psychiatric" should be deleted).

### Classification

52. The purposes of classification shall be:

- a) to prevent contamination by the separation from others of 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 training.

#### PHILIPPINES

With respect to the classification of prisoners in the manner prescribed by these rules, it is the objective of this Bureau to classify each institution into a specialized institution suitable to the training program of prisoners in conformity with the spirit of the individualized treatment system.

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

#### PHILIPPINES

See observations under Rule 52.

### Individualization

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

#### PHILIPPINES

See observations under Rule 52.

### Privileges

55. Systems of privileges appropriate for the different classes of prisoners and the different methods of training shall be established at every institution, in order to encourage good conduct,

develop a sense of responsibility and secure the interest and co-operation of the prisoners in their training.

No observations.

#### Work

56. a) All prisoners under sentence shall be required to work, subject to their physical fitness as determined by the medical officer.
- b) Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.
- c) So far as possible the work provided shall be such as will maintain or increase the prisoners' ability to earn an honest living after liberation.
- d) Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.
- e) 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.

No observations.

57. 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 industrial life.

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

No observations.

58. a) It is preferable that institutional industries and farms shall be operated directly by the administration and not by private contractors.
- b) Where prisoners are employed in work not controlled by the administration, such labour shall always be under the supervision of the institution's personnel, and 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 their output.

#### PHILIPPINES

Paragraphs (a) and (b): All prisoners working in prison farms and industrial shops are supervised by prison personnel. There is, however, an exception in the case of a group of prisoners assigned to work in the different outfits of the Philippine Army, in which the prisoners are supervised directly by army personnel. The Army personnel entrusted with the supervision of these prisoners work in co-ordination with this Bureau.

#### YUGOSLAVIA

The work and the life of prisoners employed with private persons is outside the control and supervision of the institution administration; they are subjected to inhuman exploitation and treatment which are not in conformity with the general principles of the standard minimum conditions for the treatment of prisoners, nor with their preparation to return to free life as useful members of the society. We consider that the rules should provide as a principle that prisoners must not be employed with private persons. The Yugoslav law on the application of punishments, security, and educational and correctional measures, in its Article 55, explicitly and without exception prohibits the use of prisoners for work with private persons.

59. a) The precautions laid down to protect the safety and health of free workmen shall be equally observed in institutions.
- b) Arrangements shall be made to indemnify prisoners against industrial accident or disease on terms not less favourable than those extended by law to free workmen. <sup>1)</sup>

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1) "Consideration should be given to allowing prisoners to participate to the greatest practicable extent in any social insurance schemes in force in their countries." (From a resolution adopted in August 1950 by the Twelfth International Penal and Penitentiary Congress at The Hague.)



INTERNATIONAL LABOUR ORGANIZATION

Paragraph (b): It is suggested that the expression "industrial accident or disease" should be replaced by "employment injury, including occupational disease."

AUSTRALIA (New South Wales)

Paragraph (b): The question of indemnifying prisoners against industrial injury is under consideration by the New South Wales Government.

CANADA

Paragraph (b): Prisoners are indemnified if injury is due to negligence on the part of penitentiary employees but they are not entitled to the benefits of the workmen's Compensation Acts.

PHILIPPINES

Paragraph (b): The humanitarian project suggested in the Standard Minimum Rules, in the sense that working prisoners shall be indemnified against industrial accidents or upon loss of life in the same terms as those extended to free workmen, is being taken up in the legislative circles. The Bureau of Prisons has sponsored a bill designed to compensate prisoners injured or killed while working in the different industrial projects to which they may be assigned. It is expected that this bill will be taken up in a future session of the Philippine Congress.

UNION OF SOUTH AFRICA

Paragraph (b): At present there is no legal provision whereby prisoners can be indemnified "against industrial accident or disease on terms not less favourable than those extended by Law to free workmen." All cases deserving of consideration are, however, dealt with on their merits and ex-gratia awards are made when justified.

60. a) The maximum daily and weekly working hours of the prisoners shall be fixed by law or administrative regulation.
- b) The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required by the system of training in force.

#### YUGOSLAVIA

It is necessary that the national legislation adopt as a principle a maximum of an eight-hour day for the work ordered by the administration of the institution, and a maximum of six hours for prisoners who are under age, which includes also the hours spent at the school such minors are attending. The fixing of the working day with one day of rest weekly is necessary for the task of re-education carried out in various forms (attending of lectures and discussions, reading books and newspapers, participation in choruses and musical groups, attending of schools and courses and the like) according to the provided curriculum. The Yugoslav system of application of punishment adopts the principle of limitation of the working day as already explained, fixing it to a maximum of 8 and 6 hours for adults and minors respectively. The free time is used for various forms of re-education of the prisoners. Thus the Yugoslav system endeavours to reduce as much as possible the difference between the life of prisoners and the normal life of free citizens.

61. a) There shall be a system of remuneration to stimulate the industry and interest of prisoners in their work.
- b) The system shall allow of the prisoners spending at least a part of their earnings on approved articles for their own use during their sentences and of sending a part of their earnings to their family.<sup>1)</sup>

## THE NETHERLANDS

Paragraph (b): For the time being it will not be possible to allow the prisoners to send a part of their earnings to their family. Although the competent Netherlands authorities recognize the desirability of such a provision it cannot be implemented until the organization of work will permit payment which may partly be turned over to the family.

## PHILIPPINES

Paragraph (a): Under Republic Act 2489 a system of compensation for prisoners is provided. For this purpose the quality of work performed by prisoners is classified into four grades ... Overtime services are also compensated ... This compensation of prisoners, under the Rules and Regulations, may be disbursed to meet the needs of their families and for their own personal requirement in the amounts that may be authorized by the Director of Prisons. In ordinary cases, only one-half of the compensation earned can be withdrawn to take care of the personal needs of the inmate, the other half being retained for his personal expenses upon his discharge. The general fund is entrusted to a Trust Fund Officer who deposits the fund with the Postal Savings Bank. Such fund representing compensation to prisoners is exempt from attachment.

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1) "Prisoners should receive a wage. The Congress is aware of the practical difficulties inherent in a system of paying wages calculated according to the same norms that obtain outside the prison. Nevertheless, the Congress recommends that such a system be applied to the greatest possible extent. From this wage there might be deducted a reasonable sum for the maintenance of the prisoner, the cost of maintaining his family and, if possible, an indemnity payable to the victims of his offence." (From a resolution adopted in August 1950 by the Twelfth International Penal and Penitentiary Congress at The Hague.)

## UNION OF SOUTH AFRICA

Paragraph (a): Wages are not paid to prisoners in Union prisons or gaols, but those employed on skilled work receive a daily gratuity in accordance with their degree of skill in the work on which they are employed.

## YUGOSLAVIA

According to the Yugoslav provisions work is obligatory for prisoners (with the exception of those who are detained for investigation) as one of the means of re-education. For his work the prisoner receives pay and grants. For work of more than 8 hours (which is not ordered as a disciplinary measure) as well as for the effect beyond the determined effect, the prisoners receive rewards according to the general rules governing salaries for that specific type of work. In addition to that, prisoners who are particularly outstanding as inventors of a new system of work or who find out more efficient procedures in the process of production, receive under Article 38 of the Law on application of punishments and measures of security, special grants in money, and they are offered better living conditions and other privileges which are provided for with more details in the regulations of the institution. Under Article 39 of the mentioned Law, at least one-third of the prisoner's salary is deposited with the administration of the institution as a savings deposit which is delivered to the prisoner upon discharge. The other two-thirds are spent by the prisoner for his hygienic necessities and for consumer goods as provided with more details in the Regulations of the institution. With such a system of salaries and the use of one part of the pay by the prisoner himself and particularly by the deposit of one-third of the salary until the discharge of the prisoner, the latter is becoming accustomed to the life of a free man and to thrift, and at the same time he secures financial means that he uses upon discharge until he obtains employment. We are of the opinion that greater efficiency and interest of the prisoner in the work he is doing would be encouraged if the Draft and the national legislation of other countries would apply the principle of saving one-third of the salary the prisoner is obtaining for his work while serving his sentence and which is returned to him as his savings upon discharge.

Education and Recreation

62. Provision shall be made for the further education of all prisoners capable of profiting thereby and special attention shall be paid to the education of illiterates and young prisoners.

No observations.

63. The mental and physical health of prisoners shall be safeguarded by the provision of recreational and cultural activities.

No observations.

Social Relations and After-care.

64. 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.

PHILIPPINES

Mention has already been made of the establishment of a new Classification Division, under which a Social Service Unit will be organized. The Social Service Unit will undertake the compilation of the social history of each individual prisoner for the use of the Classification Board when this body takes up the determination of his vocational training and in prescribing the proper institutional treatment for the prisoner. It is believed that the spirit of the provisions contained in paragraphs 64 and 65 of the Draft will be carried into effect upon the operation of the Social Service Unit.

65. From the beginning of a prisoner's sentence consideration shall be given to his future after liberation 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.

PHILIPPINES

See observations under Rule 64.

66. a) Agencies for the purpose of assisting liberated prisoners to re-establish themselves in society shall ensure, so far as is possible and necessary, that liberated prisoners 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 destinations and maintain themselves in the period immediately following their liberation.
- b) 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.
- c) It is desirable that such agencies shall be centrally co-ordinated in order to secure the best use of their efforts.

#### INTERNATIONAL LABOUR ORGANIZATION

Paragraph (a): It is suggested that the words "for the purpose of assisting" should be replaced by the words "which assist" (to make it clear that the agencies mentioned are not only those which have assistance of prisoners as their main purpose, but include those rendering vocational services, e.g., employment services.)

#### PHILIPPINES

Paragraph (a): The accommodation prescribed for prisoners in this paragraph is followed in the Bureau of Prisons pursuant to its Rules and Regulations which, in turn, are based on the provisions of Section 1751 of the Administrative Code, which provides that upon the release of a prisoner, he shall be supplied with transportation to his home, including a gratuity to cover the probable cost of subsistence en route and a suit of clothes ... As for securing employment for a released prisoner, it has already been stated in the preceding comments that work in the farm, fisheries and industrial shops in provinces will accommodate released prisoners, so that there appears to be no urgent need at present for the creation of special agencies to help prisoners after their discharge from custody.

B. INSANE AND MENTALLY ABNORMAL PRISONERS

67. a) Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental hospitals as soon as possible.
- b) Prisoners who suffer from other mental diseases or abnormalities shall be treated in special institutions.
- c) During their stay in a prison, such prisoners shall be placed under the special supervision of a medical officer.

No observations.

68. The medical service of the penal institutions shall include a psychiatric service for the treatment of prisoners suffering from mental abnormalities which might be relieved by psychiatric treatment.

No observations.

C. PRISONERS UNDER ARREST OR AWAITING TRIAL

69. The following rules apply to persons, hereinafter in these rules called "untried prisoners," who are detained either in police custody or in prison custody (jail) by reason of a criminal charge against them in respect of which their guilt has not yet been determined by the competent court.

UNITED KINGDOM

The Rules in Section C are not appropriate, and could not as a whole be applied, to prisoners remanded in police custody in the United Kingdom, but the period of such remand is very short.

70. a) Untried prisoners shall be segregated from convicted prisoners.
- b) Young untried prisoners shall be segregated from adults and shall in principle be detained in separate institutions.

SWEDEN

In these points it is stated that untried prisoners should be kept apart from convicted prisoners, and that young untried prisoners should be kept apart from adult untried prisoners and should in principle be detained in separate institutions. It is further laid down that untried prisoners should sleep singly in separate rooms. In connexion with these provisions it seems desirable to point out that in many cases untried prisoners enter Swedish prisons in small numbers, say one or two at a time. If a young prisoner who is awaiting trial is suffering from severe mental disturbance and can therefore not be left alone in his cell it should not be made impossible to put with him even an adult prisoner who has been convicted, if this can be expected to have a favourable effect on the young prisoner. It should further be noted that a prisoner is often removed before trial to a separate psychiatric section of a prison, where his mental state can be investigated. As this investigation generally takes about six weeks, the psychiatrist frequently finds it desirable for medical reasons to allow the young prisoner to live together with other prisoners who are also in the psychiatric section for observation. In that case it is not as a rule possible to avoid placing the young prisoner together with adults. It would appear that the very definite rules under points 70 and 71 should be relaxed so that an exception may be made when it is found desirable to do so for medical reasons.

71. Untried prisoners shall sleep singly in separate rooms.

SWEDEN

See observations under Rule 70.

UNION OF SOUTH AFRICA

While every effort is made to keep untried prisoners apart from each other at night, as far as may be practicable, lack of single cells for that class and fluctuations of admissions at most gaols preclude at present any general directive being issued on the lines envisaged.



72. a) An untried prisoner shall be allowed to wear his own clothing if it is clean and suitable.
- b) Those who do not wear their own clothing shall be required to wear prison dress, which shall be different from that supplied to convicted prisoners.

No observations.

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

AUSTRALIA (New South Wales)

The voluntary employment of trial prisoners whilst observing the proper provisions in relation to their classification and separation presents such serious administrative difficulties that it is regarded as impractical.

UNION OF SOUTH AFRICA

In view of the remarks made in regard to Rule No. 61 (a) above, the proposal that untried prisoners be paid for work done voluntarily by them cannot be favourably considered.

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

DIVISION OF HUMAN RIGHTS

The expression "the interests of justice" should be replaced by the phrase "the interests of the administration of justice."

part II

rules 75 to 77

75. 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.

DIVISION OF HUMAN RIGHTS

The onus of proving reasonable grounds for his desire to have his own doctor or dentist should not lie on the untried prisoner: it is the administration which should show reasonable grounds for not allowing an untried prisoner to have his own doctor or dentist.

76. An untried prisoner shall be allowed all reasonable facilities for communicating by letter with his relatives and friends, and for receiving visits from them subject only to such restrictions and supervision as are necessary in the interests of justice and of the security and good order of the institution.

DIVISION OF HUMAN RIGHTS

The expression "the interests of justice" should be replaced by the phrase "the interests of the administration of justice."

77. For the purposes of his defence, an untried prisoner shall be allowed to receive visits from his legal adviser and to prepare and hand to him confidential instructions. For these purposes, he shall if he so desires be supplied with writing material. Interviews between the prisoner and his legal adviser may be within sight but not within the hearing of a police or institution official.

JAPAN

Substantially the same system as that which is provided under this Rule has been adopted in Japan as a useful system for protecting the rights of untried prisoners. However, a satisfactory operation of this system depends much - perhaps too much - on the conscience of those concerned. Possibility of abuses is great, such as perjury and instigation of perjury. The order and safety of the prison itself may be threatened. It seems, therefore, desirable in order to avoid this danger to find such appropriate measures as are not contrary to the purport of this Rule.

D. CIVIL PRISONERS

78. 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.

PHILIPPINES

The Constitution and laws of this country prohibit the imprisonment of a person for debt or non-payment of a poll tax. No special provisions, therefore, appear in the Rules and Regulations of this Bureau concerning the class of prisoners mentioned in paragraph 78 under comment.

UNITED KINGDOM

Her Majesty's Government suggest the deletion of the second sentence of this Rule. This sentence adds nothing which is important in principle to what is said in the first sentence, and it may not be possible to comply with its terms in those countries where, though the first sentence of the Rule is fully observed, the treatment of this category of prisoners is governed by rules which are quite separate from those relating to untried prisoners.

Part III

### III

#### OBSERVATIONS PERTAINING TO SPECIFIC QUESTIONS

##### NOT DEALT WITH IN THE DRAFT

#### DIVISION OF HUMAN RIGHTS

The Division is of the opinion that Part C ☐ Prisoners under arrest or awaiting trial, Rules 69 to 77 should contain a provision to the effect that untried prisoners are presumed to be innocent persons whose detention can be justified only in the interests of the administration of justice. It should be made clear in the Rules that Part C is not merely a sub-heading applicable to special categories, like prisoners awaiting sentence, but that it constitutes a separate part altogether. Many of the general Rules (e.g. Rules 16, 23-26, and 31-34) should not apply to untried prisoners at all.

#### FRANCE

The competent authorities deem it regrettable that the Standard Minimum Rules do not make mention of the principle that prisoners continue to be entitled to their civil and political rights to the extent that they were not expressly deprived of such rights.

#### YUGOSLAVIA

We note that the following questions are not regulated at all in the revised text of the Draft of Standard Minimum Rules for the treatment of prisoners:

1. The special service of education dealing with the re-education of prisoners in institutions;
2. The introduction of a personal file;
3. The security service;
4. The proceedings for release on probation.

#### Point 1

A number of measures for the re-education of prisoners with a view to enabling them to become useful members of the society, as applied in the Yugoslav system of serving sentences, is impossible to carry out without an organized service of educators. The Yugoslav law on the application of punishments and measures provides in its article 54

part III

for the establishment of a special group of educators whose activities as teachers in the cultural and educational field and in sports are directed by a chief. For that reason in each institution industrial and craftsmen workshops functioning as enterprises, as well as farms where the prisoners work, are organized. There are also professional craftsmen and agricultural schools and courses for general education, courses for illiterates, and cultural-educational training and sports. The work of educators for the re-education of those prisoners who are employed in industrial workshops and crafts and farms outside the institution is similarly organized.

Point 2

The Rules for General Application provide only for the keeping of a register. We are of the opinion that in addition to registers, a personal file must also be kept. This file should contain information about the prisoner, the reason for his conviction, the date of the sentence, the date and hour of his reception at the institution or of his discharge. This would be entered in the following manner:

- (a) previous punishments and sentences served;
- (b) health condition, physical abilities and personal record;
- (c) changes occurring pursuant to the alleviation of the punishment (amnesty, release on probation, transfer, etc.)
- (d) disciplinary punishments;
- (e) description of the prisoner with a place for his photograph and fingerprints.

These data are of interest from a criminological point of view and they are useful for the study and the accurate record of the prisoner's life.

Point 3

Our opinion is that the security service in institutions where prisoners are placed cannot be performed either by military or police forces. It is necessary that the regulations provide with more detail for the question of the personnel assigned as guards. They should be specially trained so that they may, in addition to their responsibility for the security, have as a permanent task to work with the prisoners in order to promote the purposes of the punishment.

## part III

Point 4

The Draft has made no detailed provisions as to the release on probation of prisoners. The Yugoslav law on the application of punishments and measures (Article 67) provides for the prisoners who served one-half of their sentence in strict or simple confinement, to be discharged if, by their work and behaviour during the serving of the sentence they showed that they had improved and that they would not commit any crimes in the future. If a prisoner was particularly outstanding in work and behaviour during the serving of his sentence he might be released even before he should have served one-half of his sentence. At the end of each third month the Director of the institution with his advisory board composed of his assistants, the chief of the educational group, the physician and the commander of the guard, has to decide on the release on probation of prisoners who filed an application therefor, as well as on the release of those who did not file an application. On the basis of these consultations, the Director sends his proposal to the competent Minister in the Government of the Republic and the latter, prior to his decision on the release on probation, requests the opinion of a special Commission composed of the Assistant Minister, the Director of the Department for punishments, the public Prosecutor of the People's Republic or the Federative People's Republic of Yugoslavia and of one Judge of the Supreme Court. Besides the reasons already stated, the recommendation under Point 2 should be applied also in connexion with the procedure for release on probation in view of the fact that the personal files should contain all the necessary information for a just solution regarding the release on probation. We are of the opinion that the General Principles, i.e., the Standard Rules should elaborate these questions as a general principle and that they consider this problem since it should be regulated by these Rules.