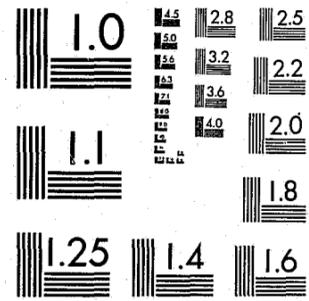


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**THE IMPLEMENTATION OF THE UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS**

Working paper prepared by the Secretariat

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THE IMPLEMENTATION OF THE UNITED NATIONS STANDARD MINIMUM RULES  
FOR THE TREATMENT OF PRISONERS

A. Background

1. The Economic and Social Council, in its resolution 663 C (XXIV) of 31 July 1957, approved the Standard Minimum Rules for the Treatment of Prisoners as adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders and endorsed, inter alia, the Recommendations on the Selection and Training of Personnel for Penal and Correctional Institutions and the Recommendations on Open Penal and Correctional Institutions. In the same resolution, Governments were invited to give favourable consideration to the adoption and application of the Rules and to take the other Recommendations as fully as possible into account in the administration of penal and correctional institutions, and the Secretary-General was requested to be regularly informed of the progress made with regard to the implementation of the Rules.
2. In view of its increasing concern for human rights on the administration of justice, the General Assembly, in its resolutions 2858 (XXVI) of 20 December 1971, 3144 B (XXVIII) of 14 December 1973 and 3218 (XXIX) of 6 November 1974, recommended that "Member States should make all possible efforts to implement the Standard Minimum Rules in the administration of penal and correctional institutions and take the Rules into account in the framing of national legislation."
3. The first inquiry on the implementation of the Rules was made in 1967. The results of this inquiry, to which 44 countries replied, were presented to the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. 1/ Moreover, issue number 26 of the International Review of Criminal Policy was entirely devoted to the issue of the implementation of the Rules. 2/ A second inquiry was made in 1974 and its results, which included replies of 62 countries, were presented to the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. 3/ In accordance with paragraph 2 of General Assembly resolution 3144 B (XXVIII), information on the current application of the rules was included in the report of the Secretary-General on crime prevention and control (A/32/199, paras. 54-59), which was discussed by the General Assembly at its thirty-second session.

1/ See annex to "The Standard Minimum Rules for the Treatment of Prisoners in the light of recent developments in the correctional field" (A/CONF.43/3).

2/ United Nations publication, Sales No. E.70.IV.1.

3/ See annex I of the working paper prepared by the Secretariat entitled, "The treatment of offenders, in custody or in the community with special reference to the implementation of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations" (A/CONF.56/6).

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4. Following the Fifth Congress, as a further follow-up to the Recommendation on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, unanimously adopted by the General Assembly in its resolution 3452 (XXX) of 9 December 1975 as recommended by the Fifth Congress, 4/ the Economic and Social Council, in its resolution 1993 (LX) of 12 May 1976, requested the Committee on Crime Prevention and Control to study the range of application of the Standard Minimum Rules and to formulate a set of implementing procedures.
5. In accordance with this request, the Committee on Crime Prevention and Control, at its fourth session, drafted a new Rule (No. 95) which endeavoured to extend the applicability of the Standard Minimum Rules to all persons arrested or imprisoned, with or without charge or conviction, as well as a set of procedures for the effective implementation of the Rules (see E/CN.5/536, para. 95 and annex VI).
6. The work of the Committee was welcomed by the General Assembly in its resolution 31/85 of 13 December 1976, in which, inter alia, the Economic and Social Council was invited to consider, with due priority, the recommendations of the Committee.
7. In its resolution 2076 (LXII) of 13 July 1977, the Economic and Social Council decided that a new section entitled "Persons arrested or imprisoned without charge" be added to part II of the Rules 5/ but did not have time to consider the procedures for the effective implementation of the Rules, as proposed by the Committee. 6/
8. The present inquiry reflects the structure of the survey carried out in 1975, so as to ensure some consistency and comparability of results. 7/ However, in the present questionnaire, two additional sections were included for purposes of
  - 4/ Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/CONF.56/10), para. 300.
  - 5/ Rule 95 reads as follows:
 

"Without prejudice to the provisions of article 9 of the International Covenant on Civil and Political Rights, persons arrested or imprisoned without charge shall be accorded the same protection as that accorded under part I and part II, section C. Relevant provisions of part II, section A, shall likewise be applicable where their application may be conducive to the benefit of this special group of persons in custody, provided that no measures shall be taken implying that re-education or rehabilitation is in any way appropriate to persons not convicted of any criminal offence."
  - 6/ The procedures are annexed to the present working paper.
  - 7/ See, in this regard, the working paper prepared by the Secretariat entitled, "The treatment of offenders, in custody and in the community with special reference to the implementation of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations" (A/CONF.56/6), annex I, para. 4, for details on the structure of the questionnaire.

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seeking information on the current trends in prison population <sup>8/</sup> as recommended by the Committee on Crime Prevention and Control at its fourth session (E/CN.5/536, paras. 28 and 108), and to receive comments on the procedures for the effective implementation of the rules.

9. The questionnaire was sent to Member and non-Member States by a note verbale of 8 October 1979, and a follow-up note was sent on 23 January 1980. On 15 May 1980, replies were received from the following countries: Argentina, Bahrain, Belgium, Bolivia, Botswana, Chile, Cyprus, Egypt, France, Germany, Federal Republic of, Greece, Guatemala, Israel, Italy, Japan, Kuwait, Lebanon, Luxembourg, Malaysia, Netherlands, Niger, Norway, Panama, Poland, Qatar, Republic of Korea, Romania, Saudi Arabia, Singapore, Solomon Islands, Sri Lanka, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, and Zambia.

B. General application of the Standard Minimum Rules

10. The responses to the present inquiry provide further confirmation of the considerable influence of the Standard Minimum Rules on national legislation or regulations. The great majority of the responding countries have stated that both the prevailing prison laws and the administrative regulations, though often not yet completely incorporating the Rules, have taken into account their content, so as to fully comply with them. Some countries pointed out that their prison laws had already been established when the Rules were adopted: in those cases, the Rules had influenced later changes in current practice. A few countries noted that no specific enactments had been made in response to the Rules, since the existing statutory provisions, or administrative provisions applicable to penal establishments, already embodied the principles contained in the Rules.

11. Considerable efforts seem to have been made to disseminate the Rules in the official languages of the various countries. In the Netherlands, matters covered by the Standard Minimum Rules are translated into certain other languages and are disseminated by means of cell information cards.

<sup>8/</sup> Member States were requested to provide information on the make-up of the prison population by sex and age in order to relate the problems associated with the implementation of the Rules to the offender's population, both in prison (pre-trial and sentenced prisoners) and in community treatment, including drug treatment centres and psychiatric institutions, for the years 1975 and 1979. Although several countries have provided the information requested (for example, Argentina, Bahrain, Belgium, Botswana, Chile, Egypt, France, Germany, Federal Republic of, Greece, Italy, Israel, Japan, Kuwait, Luxembourg, Malaysia, Netherlands, Niger, Norway, Republic of Korea, Saudi Arabia, Singapore, Solomon Islands, Sri Lanka, Sweden, United Kingdom and Zambia). The data received were not representative enough and, at times, not complete. Their presentation has, therefore, been precluded at this stage. However, some data have been used as indications of current trends and practice in chapter I of the working paper on the deinstitutionalization of corrections and its implications for the residual prisoner (A/CONF.87/7).

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12. Most of the countries reported that the Standard Minimum Rules were available in their penal and correctional institutions to the staff as well as the prisoners, in so far as they were incorporated into national laws and regulations. However, several countries observed that inmates did not have direct access to the Rules. Therefore, they could not be invoked. In some countries, however, a special machinery had been set up at the national or regional level to implement the Rules.

13. Generally, the Rules are included in programmes for staff training, and the recommendations attached to the Rules on the Selection and Training of Personnel for Penal and Correctional Institutions have been taken into account. The other Recommendations on Open Penal and Correctional Institutions have been used to a more limited extent, especially since in some responding countries, open institutions have not yet been established.

14. With reference to the new Rule 95, added by Economic and Social Council resolution 2076 (LXII), only some countries reported that they had modified their laws and regulations in accordance with this new Rule. In many countries, instead, no need to modify existing laws was felt, simply because this Rule would not apply. In fact, all persons were detained on the basis of an official judicial order of detention. In a few countries, however, this new Rule had not been received.

C. Implementation of the Standard Minimum Rules

15. A summary of all replies regarding the implementation of the Rules is contained in the table, which displays the extent of implementation of the different Rules. Since the table speaks for itself, the analysis in the following paragraphs will be kept to the bare essential, mentioning only specific comments made by the responding countries.

16. Rule 6 (Basic principle). This Rule is fully implemented except in two countries where it is recognized in principle.

17. Rule 7 (Register). This Rule is also fully implemented except in one country where it is only partly implemented. One country mentioned that the register has been organized in a card index system in order to facilitate possible changes in the prisoner's status (Netherlands). Two countries emphasized that this Rule should take into account modern record-keeping methods, such as computerized registration (United Kingdom, Chile).

18. Rule 8 (Separation of categories). In almost two thirds of the countries, this Rule is fully implemented. In nine countries it is partially implemented; in three, recognized in principle and only in two it is not implemented. Several countries reported deviations from this Rule in different aspects and for different reasons. Most of the countries from the various regions, however, made reference to overcrowded prisons. When men and women are detained in the same institution, they are lodged in different sections or dormitories.

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Table Survey of the replies from Member States on the implementation of the Standard Minimum Rules

Rule(s)/Section	Number and types of replies a/						Total
	Implemented	Implemented partially	Recognized in principle	Not implemented	Not applicable	No response	
<b>PART I. RULES OF GENERAL APPLICATION</b>							
Rule 6 (Basic principles)	34		2				36
Rule 7 (Register)	35	1					36
Rule 8 (Separation of categories)	21	9	3	2	1		36
Rules 9 - 14 (Accommodation)	18	12	5		1		36
Rules 15 - 16 (Personal hygiene)	33	2	1				36
Rules 17 - 19 (Clothing and bedding)	31	2	2	1			36
Rule 20 (Food)	34	1	1				36
Rule 21 (Exercise and sport)	26	8	2				36
Rules 22 - 26 (Medical services)	26	9	1				36
Rules 27 - 32 (Discipline and punishment)	29	5	1	1			36
Rules 33 - 34 (Instruments of restraint)	33	2				1	36
Rules 35 - 36 (Information and complaints)	31	3	1	1			36
Rules 37 - 39 (Contacts with the outside world)	34	2					36
Rule 40 (Books)	29	6	1				36
Rules 41 - 42 (Religion)	32	3				1	36
Rule 43 (Retention of prisoner's property)	34	1	1				36
Rule 44 (Notification of death, etc.)	34	1	1				36
Rule 45 (Removal of prisoners)	29	6				1	36
Rules 46 - 54 (Institutional personnel)	23	9		3		1	36
Rule 55 (Inspection)	30	1	2	2		1	36
<b>PART II. RULES APPLICABLE TO SPECIAL CATEGORIES</b>							
Rules 56 - 64 (Prisoners under sentence)	25	9	2				36
Rules 65 - 66 (Treatment)	26	7	3				36
Rules 67 - 69 (Classification and individualization)	24	9	1	2			36
Rule 70 (Privileges)	23	6	1	3	3		36
Rules 71 - 76 (Work)	24	10	1	1			36
Rules 77 - 78 (Education and recreation)	23	13					36
Rules 79 - 81 (Social relations and after-care)	27	3	2	3	1		36
Rules 82 - 83 (Insane and mentally abnormal prisoners)	29	6		1			36
Rules 84 - 93 (Prisoners under arrest or awaiting trial)	24	9	1	2			36
Rule 94 (Civil prisoners)	21				12	3	36
Rule 95 (Persons arrested or detained without charge)	23	1		1	6	5	36
Percentage	77.5	14	3.1	2	2.1	1.2	99.9

a/ One country that did not use the questionnaire when replying is not included in this survey.

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Separation of juveniles presents problems: Poland and Japan mentioned that juveniles were often detained together with adults for educational purposes; in Norway, there is no longer any special institution for the treatment of young persons, the reason for this being a very high recidivism rate of young offenders having served sentences in closed juvenile institutions, while in the United Kingdom, civil prisoners and young offenders are sometimes offered and allowed to work in the workshops together with adult convicted inmates.

19. Rules 9-14 (Accommodation). These Rules are implemented in half of the answering countries and partially implemented or recognized in principle in the remaining countries. In one European country, these Rules are not applicable because, according to its regulations, offenders are being kept in common quarters on the basis of personal characteristics, so as to allow interaction leading to adjustment to community life. Several countries which implemented the Rules only partially, or only recognized them in principle, mentioned financial problems as obstacles for their full and proper implementation. Overcrowding and/or obsolete prisons represented a major problem in some countries. One Latin American country (Bolivia), for example, pointed out that one prison with a capacity of 300 had more than 800 inmates. Another country from the same region (Chile) stressed that, because of the high cost of individual cells, the implementation of the Rule had been impossible. Two countries, one from the Asian region (Japan), the other from the Latin American region (Chile), pointed out that they had some difficulties in providing heating facilities. The United Kingdom mentioned that Rule 11 needed to be qualified by season and time of day and that it was unrealistic to require the entrance of fresh air when an air conditioning system was installed, and Chile suggested that the Rule should be extended to community rooms for group therapy. Finally, several countries from different regions mentioned that the sanitary installations were not always in satisfactory condition, because of financial problems and obsolete architecture.

20. Rules 15 and 16 (Personal hygiene). These Rules are generally implemented. However, in two developing countries, inmates are individually responsible for their personal hygiene, that is, they have to purchase their own toilet supplies. This fact limits the full implementation of Rule 15 because some prisoners do not have sufficient money.

21. Rules 17-19 (Clothing and bedding). These Rules are implemented in most countries in different regions. Rule 19 is implemented partially or recognized in principle for temporary overcrowding. Concerning Rule 17, while the United Kingdom mentioned that there were two types of clothing provided, suitable for work and leisure activities, Chile suggested the use of uniforms for all inmates in order to reduce social distinctions among them.

22. Rule 20 (Food). This Rule is generally implemented. In two developing countries, however, it is not fully complied with because of lack of funds. In the United Kingdom, provision is made for the dietary needs of prisoners of different religions.

23. Rule 21 (Exercise and sport). This Rule is implemented in most countries, except in Switzerland and Japan where the time allotted is normally 30 minutes. Four

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countries (Botswana, Greece, Israel and Lebanon) emphasized the difficulties with regard to this Rule because of insufficient facilities and/or shortage of personnel.

24. Rules 22-26 (Medical services). In both developing and developed countries, there are some difficulties with the full implementation of these Rules. Several countries pointed to the difficulty of providing full-time doctors, particularly in areas remote from cities, while others strongly emphasized the economic factor and the shortage of medical expertise. Norway mentioned, with reference to Rule 23 (2), that there were no special arrangements made in the institutions for pre-natal and post-natal care and treatment: in fact, pregnant women and women having given birth and nursing their children are not admitted to prison to serve a sentence.

25. Rules 27-32 (Discipline and punishment). These Rules are implemented or at least recognized in principle in all reporting countries but one, since many prisons do not have internal regulations for their proper application. Two countries, (Chile and Netherlands) pointed out that under no circumstances could a punishment involving a reduction of diet be inflicted. Japan mentioned a proposal for the abolition of the reduction of food, as well as isolation, in the expected revision of its prison law. However, isolation, as well as corporal punishment, that is, caning, still exist in two countries. In that connexion, it was mentioned that caning was a traditional form of punishment and that it was limited to a maximum of 24 strokes with a rattan cane.

26. Rules 33 and 34 (Instruments of restraint). These Rules are mostly implemented. Some countries stressed that these instruments are never used as punishment and that there are national laws specifically prohibiting such methods. Niger stressed the fact that the provision of irons still remains in an old regulation, but in practice it is never used.

27. Rules 35 and 36 (Information and complaints). These Rules are observed by most of the reporting countries. The replies show that prisoners are able to make requests or complaints directly to "visiting committees". In this regard, Chile proposed that these committees should visit the institutions more often without previous announcement. Some countries pointed out that complaints to duly constituted authorities such as the "supervisory judge", the ombudsman and members of Parliament, could be made either orally or in writing, independent from the correctional system. Moreover, in countries which are members of the Council of Europe, individual complaints can also be addressed to the European Commission on Human Rights. With reference to written complaints, there are some difficulties in countries where a large portion of the prison population is illiterate.

28. Rules 37-39 (Contacts with the outside world). These Rules are implemented in the great majority of the responding countries. The Netherlands reported that the right of free communication with diplomatic and consular representatives had been incorporated in the law and suggested that contacts through telephone should be added in the Rules. Several countries mentioned that newspapers, radio and television were provided to all prisoners. In one Western European country,

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however, special restrictions can be imposed for those inmates who have been convicted of, and sentenced for, an offence under a certain section of the criminal code (formation of terrorist associations) or in connexion with organized terrorism or for any of the offences mentioned in that provision and for whose arrest a warrant has been issued because they are suspected of having committed such an offence.

29. Rule 40 (Books). This Rule is generally observed. However, several countries reported some difficulties, owing to financial reasons and lack of space. In Bolivia, the initiative is left to the inmates. In the United Kingdom, books for prisoners of ethnic minorities and other inmates are provided according to the demand and the number of such inmates in the establishment. It was also pointed out by some countries that obscene literature is excluded.

30. Rules 41 and 42 (Religion). These Rules are mostly implemented. Japan referred to constitutional obstacles to the appointment of representatives of a religion because of the separation between state and church, religious practice being regarded as a private affair of each citizen. However, volunteer priests or chaplains were usually allowed or, in appropriate cases, asked by the prison authorities to conduct religious services in the institutions for those prisoners wishing to attend.

31. Rule 43 (Retention of prisoner's property). This Rule is observed in all responding countries. It was mentioned that an obstacle for the implementation of this Rule is the lack of storage space.

32. Rule 44 (Notification of death, etc.). This Rule is implemented by the great majority of the responding countries. Botswana mentioned the difficulties which sometimes arise in connexion with long distances and poor or non-existent communications. Kuwait pointed out that it was difficult to timely notify the prisoner's family in the event of illness or transfer. In the event of death, however, immediate notification is given. It was also mentioned that, as immediate notification of the death of a relative might have an adverse effect on the prisoner, usually such notification was given when the competent authority deemed appropriate to do so, in accordance with the prisoner's conduct and health.

33. Rule 45 (Removal of prisoners). Some countries from different regions reported that, for economic reasons, sometimes public transportation was used and that, therefore, it was not always possible to protect prisoners from curiosity. Malaysia pointed out that prisoners wear their own clothing during removal.

34. Rules 46-54 (Institutional personnel). Developed as well as developing countries reported that they have difficulties in observing these Rules to the fullest extent in practice. Many of them mentioned scarcity of specialists, particularly psychiatrists and psychologists. Shortage or lack of adequate funds and difficulties related to the recruitment and training of staff were often mentioned as serious obstacles to the implementation of these rules. With regard to Rule 53, some Western European countries (Netherlands, Norway, United Kingdom) pointed out that male officers were permitted to work in female institutions or sections and vice versa.

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35. Rule 55 (Inspection). This Rule is recognized or implemented in all but two countries. Several countries mentioned the existence of inspection bodies outside the correctional institutions, which may visit the institutions at least once a year (see para. 27 above).

36. Rules 56-66 (Guiding principles). Several countries considered acute budget difficulties and also lack of qualified personnel as an obstacle in regard to the implementation of these Rules. With reference to Rule 63, one country stressed that overcrowding constituted the biggest constraint to the individualization of treatment to the desired extent. Another country mentioned, in regard to Rule 61, that the discharged prisoners' aid societies were very active and provided assistance to ex-prisoners by giving them cash, transport expenses and assistance in finding employment.

37. Rules 65 and 66 (Treatment). All countries reported recognition or implementation of these Rules. Several countries pointed out that the prisoners were assisted in furthering their education and vocational training. Yet, some countries stressed again the lack of financial resources, the inadequacy and the old age of physical facilities and the shortage of specialized personnel in penal institutions.

38. Rules 67-69 (Classification and individualization). While some of the responding countries observed that overcrowding hampered proper classification and individualized treatment, several others reported that appropriate classification was applied according to sex, age, seriousness of the offence and length of sentence. Greece and Niger, as reason for partial implementation of these Rules, cited the lack of prisoners' accommodations and the insufficient training of personnel.

39. Rule 70 (Privileges). In some countries (Italy, Federal Republic of Germany and France), the principles of this Rule are not implemented simply because they are not applicable, since by law the same privileges must apply to all inmates, although there may be differences in this regard among the different institutions. Moreover, in accordance with Rule 71 of the European version of the Standard Minimum Rules, adopted in 1973, the concept of obtaining the prisoner's co-operation by means of a system of privileges has been abandoned. Therefore all prisoners have the opportunity to participate in various forms of leisure activities and can make use of other programmes. Two Latin American countries (Bolivia and Chile) however, mentioned several privileges which could be given to prisoners, such as better placement, leaves and contacts with their families.

40. Rules 71-76 (Work). According to the replies, these Rules are recognized or implemented in almost all of the answering countries, although negative factors, such as overcrowding of workshops, lack of qualified instructors and antiquated machinery were affecting the full implementation of these Rules. Bolivia remarked that while labour in industrial workshops was remunerated, autonomous craftsmanship work was not. The Federal Republic of Germany pointed out that prisoners were included in the national unemployment insurance scheme and that a bill was under deliberation by Parliament which would provide that prisoners be included in the health and pension insurance schemes. In other countries, efforts were under way

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to raise the wages of prisoners to a level comparable with that of ordinary workers. Switzerland suggested that the second part of Rule 73 was somewhat restrictive because it does not allow work outside the institutions without supervision of institutional personnel. Chile commented in a similar way in regard to Rule 71, which should include the provision to work outside the institution.

41. Rules 77 and 78 (Education and recreation). While in several countries, only programmes of primary education are being carried out and, at times, with great difficulties (such as, a lack of financial resources and personnel) and constraints (for example, education is ensured only by private organizations), in some countries, courses of post-primary and higher education, vocational training and technical skills are being offered. No indications were given, however, on the implementation of Rule 77 (1) which prescribes that primary education for illiterates should be compulsory.

42. Rules 79-81 (Social relations and after-care). Many responding countries implemented these Rules and special boards or commissions, with the participation of voluntary organizations, co-ordinate the task of reintegrating the offenders in society by providing increasing social and financial support to the ex-prisoners and their families. In this connexion, prisoners in one country are encouraged to stay in contact with their families and with social service officers so as to obtain employment upon discharge. One country, however, remarked that these Rules could not be implemented because there was no law authorizing the supervision and after-care of released offenders.

43. Rules 82 and 83 (Insane and mentally abnormal prisoners). While these Rules are implemented in many countries, one Asian country pointed out that insane offenders cannot be sent to prison institutions. Other countries also reported that mentally abnormal prisoners are treated in public mental hospitals, sometimes in a certain section of them. Two developing countries stressed their limited capacities in regard to these Rules, owing to a lack of psychiatrists. One Western European country emphasized that Rule 82 was not applicable to dangerous offenders. From the comments provided, it emerges that policies and approaches in dealing with the insane and mentally abnormal prisoner vary greatly from country to country.

44. Rules 84-93 (Prisoners awaiting trial). These Rules are mostly implemented, although several countries pointed out that tried and untried prisoners were in the same institutions because of a lack of accommodations. The Netherlands mentioned that tried and untried prisoners all have the same prison uniform and that visiting facilities are limited to untried prisoners, (that is, not exceeding one hour per week). Two other Western European countries, Switzerland and France, pointed out, with reference to Rule 91, that untried prisoners do not have the right of consulting a physician of their choice and, in one of them, the right can be granted only by ministerial permission.

45. Rule 94 (Civil prisoners). Several countries (one third of the total) pointed out that there was no imprisonment for debt in their legislation. Some of those countries having this category of prisoners, stressed that such prisoners could not be required to work and that usually, when working, they were kept separate from other prisoners.

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46. Rule 95 (Persons arrested or detained without charge). Various countries from different regions pointed out that this Rule was not applicable because there were no persons without charge in their institutions. In this regard, one country commented that it was impracticable to make arrangements for providing some of the facilities set out in the Standard Minimum Rules (for example, changes of clothing or recreational training) in the short period for which persons are usually held in police custody in many countries. Although the spirit of humane treatment which characterizes the Standard Minimum Rules should apply to persons arrested but not charged with an offence, it should be recalled that the Standard Minimum Rules were conceived primarily for persons held in prisons following a court order. It should be advisable, therefore, to elaborate, as soon as possible, an explanatory commentary to the Rules which would enable them to be seen in a modern context and afford greater flexibility in their application. However, one Asian country mentioned that these persons were detained in open camps with only barbed wire or fencing; that they were accommodated in dormitory blocks with sanitary and recreation facilities provided, including television and newspapers and that they were not required to work (when working, however, they were paid); while one country from Latin America reported that these persons were treated like all other prisoners. Other countries had previously outlined that some changes had been made in their legislation to make Rule 95 applicable. This demonstrates that the new Rule was indeed necessary, in order to extend the application of the Rules to those persons as well.

D. Further action for the implementation of the Standard Minimum Rules

47. The last part of the questionnaire was intended to elicit observations regarding current experiments and new measures in the correctional field which might have implications for the implementation of the Standard Minimum Rules. Furthermore, specific comments were solicited on the Procedures for the effective implementation of the Standard Minimum Rules, drafted by the Committee on Crime Prevention and Control, so as to strengthen international co-operation for a universal implementation of the Rules.

48. With reference to recent experiments and innovations, most countries reported that these have been planned and implemented within the spirit of the Rules, mainly by establishing programmes aimed at improving work conditions and paying a basic salary to prisoners, by emphasizing the resocialization value in the full employment of offenders, by organizing effective vocational training courses and by strengthening the gradual re-entry of the offender into the community, through furloughs, work release and visits to families. In other countries, sport and recreational activities have been developed, and religious services had been improved. Kuwait underlined the need for conjugal visits for married prisoners in order to avoid perversion inside the institution. In the Netherlands, however, some innovations had been implemented which could partly deviate from some of the Rules: in particular, prison labour, paid with wages corresponding to those of outside work, was reassessed as an important element of the correctional régime; agreements were made with external social workers in order to have them more involved in the overall treatment co-ordination; drug-reception wards for "first aid" help in gaols were opened, female prison officers were introduced in male

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institutions; staff started to receive poli-functional training; and prisoners' rights were introduced and ensured by appropriate grievance procedures.

49. Two thirds of the responding countries stressed the value and importance of the Rules in establishing humane conditions in the correctional system, although it was also mentioned that the cultural norms and the social and economic conditions of the developing world did not always make possible an overall, full implementation of the Rules. This is even more so in countries with a large prison population and reduced economic potential. Various countries observed that there was no need to modify or amend the rules since "their great value lies in their original conception as principles of good practice or as a reference point or standards to be kept into account when changes in policy or practice are contemplated" and that, basically, they are considered significant and coherent. However, various countries stressed the need for an explanatory commentary which would increase understanding and help States in attempts to improve penal systems, explaining difficult areas, as well as the urgency to draft new standards for the treatment of offenders in view of the growing reliance on such non-institutional methods as probation, parole and other community-based programmes.

50. About 80 per cent of the responding countries have underlined the importance of intensified international co-operation and exchange of relevant information for a better implementation of the Rules. Modalities and forms suggested were: regional and interregional seminars and meetings, study tours of correctional personnel, training courses for prison personnel and administrators, fellowships, increased technical assistance and advisory services to be provided by the United Nations, wider dissemination of training and technical material, including audio visuals, and diffusion of scientific reports and studies. The role of the United Nations Social Defence Research Institute in this respect, together with that of the Regional Institutes, was highly emphasized. Some countries pointed out that it was a responsibility of the United Nations to assist them in developing a plan for the amelioration of corrections and after-care and in organizing study tours for some officers of its prison staff. Several countries were prepared to contribute to regional seminars and training courses and five Member States (Belgium, Greece, Kuwait, Panama and United Kingdom) manifested their readiness to organize or host international meetings in this field. Two countries also outlined the opportunity of establishing an International Institute for the Training of Correctional Personnel. While one country from Latin America suggested that the United Nations should pass a resolution for an "Annual Amnesty of Prisoners", which Member States should implement at the national level, a country from the African Region proposed a "Declaration for the Year of the Offender", in order to awaken public awareness and understanding. Finally, a country from the Asian Region indicated that the United Nations should organize a special conference to deal with the implementation of the Standard Minimum Rules with the participation of all Member States.

51. Comments on the Procedures for the Effective Implementation of the Standard Minimum Rules (see annex) were received from 65 per cent of the responding countries. <sup>9/</sup> In general, those comments were highly positive and supportive.

<sup>9/</sup> The remaining 35 per cent did not provide any comment at all. The context suggests that they were in basic agreement with the text of the procedures.

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Italy observed that "the procedures can effectively ensure the application of the Rules with reference to the assessment of the progress made in the various countries, as well as a real promotion of the principles proclaimed in the Rules". The Niger stated that "the effective application of the Rules could contribute to better safeguard the liberty and dignity of the individual", and Panama commented that "the procedures represent a significant progress in order to translate into practice the principles of the rules". The specific recommendations and suggestions for the improvement of the procedures can be summarized as follows: (a) Reference to standards to protect against torture (procedure 1) could confuse issues since the United Nations is considering separately a draft convention against torture (United Kingdom); (b) The diffusion and dissemination of the Rules (procedure 7) should be wider and more effective, mainly through a strengthening information action on the part of the United Nations (Bolivia and Chile); (c) The provisions for technical co-operation (procedure 9) should be enlarged and diversified through advisory services, exchange of information and technical meetings focusing on specific topics (Chile). United Nations experts and advisers should be sent to countries which require assistance in developing their prison system (Kuwait). Moreover, the United Nations should urge Governments to provide sufficient funds and adequate resources to the prison administration, so as to allow it to comply with the requirements of the Standard Minimum Rules and, if Governments do not do so, it should provide direct assistance (Malaysia); (d) The Committee on Crime Prevention and Control (procedure 10) should play a more active role in identifying the possible causes for the lack of implementation of the Rules in particular countries and suggest appropriate remedies also through contacts with the Judiciary and the Ministry of Justice (Panama). In this connexion, the Committee should be charged with periodic appraisals for which relevant information, especially prison data, becomes essential (Botswana, Norway and Uruguay). Such appraisals should be supplemented and complemented by occasional visits to Member States by the United Nations staff to observe and make an assessment of the implementation progress and to advise on any bottle-necks experienced (Botswana and Kuwait).

#### E. Conclusions

52. On the basis of the replies which have been received, it can be said that the Standard Minimum Rules have had a significant impact on the laws and current practice of many countries and that, to a large extent, the principles of the Rules have been embodied in the prevailing prison regulations.

53. Regarding the de facto implementation of the specific rules, the results of this inquiry conform to what was observed in the 1974 survey: mainly that only half of the countries have been able to achieve the guide-lines in Rules 9 to 14 dealing with accommodations and basic principles for securing decent living conditions for prisoners; that only about 60 per cent of the countries comply with Rule 9 dealing with "separation of categories" (partly because of temporary overcrowding and partly for a change of policy in the use of individual cells and in methods of group interaction); and that part I, "Rules of general application", is more fully implemented than part II, "Rules applicable to special categories" (82, 8 per cent against 67, 9 per cent). However, improvements took place during

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the last five years: while in the previous survey the total number of replies in the "implemented" category was about 70 per cent, now these represent almost 80 per cent. Still, great difficulties are faced in following the recommendations concerning institutional personnel (Rules 46-54), and short-comings are still notable in regard to prison work (Rules 84-93). But while in 1974, only about one half of the responding countries were fully implementing these Rules, in 1979, these countries constituted 65 per cent of the total. Of particular interest is also the progress which must be registered with respect to the Rules dealing with discipline and punishment (Rules 27-32) which are of basic importance for the protection of the fundamental right of prisoners against arbitrary treatment: in 1974, only about 60 per cent of the replying countries claimed to observe these guide-lines fully; this figure in 1979 has increased to about 80 per cent.

54. The above observations would lead to the conclusion that considerable progress has been made towards a greater implementation of the Standard Minimum Rules, world wide. However, in a survey of this sort, certain short-comings must be observed: (a) It is impossible to establish whether the replies reflect actual practice or, perhaps, the opinions of the respondents; (b) There is a lack of basic comparative data on current prison population trends and diversified ways of dealing with offenders; and (c) The representativeness of a sample of 37 countries for the entire world is in question. It should be recalled, in this connexion, that in 1967 replies were received from 44 countries and, in 1974, information was provided by 62 Member States, that is, 45 per cent of the total number of the United Nations membership. In the present survey, this percentage did not reach 25 per cent. Such short-comings can be overcome by means of more effective reporting procedures (see annex), as has been stressed by many Member States.

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Annex

PROCEDURES FOR THE EFFECTIVE IMPLEMENTATION OF THE STANDARD  
MINIMUM RULES FOR THE TREATMENT OF PRISONERS\*

Implementing procedures

Procedure 1

All States whose standards for the protection of all persons subjected to any form of detention or imprisonment against torture and other cruel, inhuman or degrading treatment or punishment fall short of the Standard Minimum Rules for the Treatment of Prisoners are requested to adopt the Rules, subject to their adaptation and harmonization with the laws and culture of the adopting State, but without deviation from the spirit and purpose of the Rules.

Commentary:

The General Assembly recommended in resolution 2858 (XXVI) of 20 December 1971 that Member States implement the Standard Minimum Rules in the administration of penal and correctional institutions and reiterated the importance it placed thereon in resolution 3218 (XXIX) of 6 November 1974. Since some States may have standards that are more advanced than the Rules, specific adoption of the Rules is, therefore, not requested on the part of such States. Where States feel that the Rules need to be harmonized with their legal system and adapted to their culture, the emphasis is placed on the substance rather than the letter of the Rules.

Procedure 2

The Standard Minimum Rules or any modification thereof, when adopted, should be embodied in national legislation and other regulations and made available to all persons concerned with their application and execution in the criminal justice system, particularly to correctional personnel.

Commentary:

It is self-evident that if the Rules are to be implemented they must be widely circulated (see "Dissemination of information", procedures 6-9 below).

Procedure 3

In order that the Standard Minimum Rules may succeed in their purpose of humanizing criminal justice, they should also be made available to all prisoners

\* Drafted by the Committee on Crime Prevention and Control at its fourth session, in pursuance of para. 6 of the Economic and Social Council resolution 1993 (LX) of 12 May 1976 (E/CN.5/536, annex VI).

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and to all persons under detention, in a manner and form that is understandable to those confined.

Commentary:

The requirement that the Rules be made available to the persons for whose protection they have been elaborated is indispensable. That was established in the four Geneva Conventions of 12 August 1949, a/ of which articles 47 of the first Convention, 48 of the second, 127 of the third and 144 of the fourth state in common:

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

Reporting system

Procedure 4

Member States shall inform the Secretary-General of the United Nations regularly of the extent of the implementation and the progress made with regard to the application of the Standard Minimum Rules by responding to the Secretary-General's questionnaire. The Secretary-General shall also invite the co-operation of the specialized agencies and of governmental and non-governmental organizations in the preparation of reports about the extent of implementation of the Standard Minimum Rules. In addition, the Secretary-General, in co-operation with Governments, shall prepare independent periodic reports on progress made with respect to the implementation of the Standard Minimum Rules.

Commentary:

It will be recalled that the Economic and Social Council, in resolution 663 C (XXIV) of 31 July 1957, recommended that the Secretary-General be informed every five years of the progress made with regard to the application of the Standard Minimum Rules and authorized the Secretary-General to make arrangements for the publication, as appropriate, of such information and to ask for supplementary information if necessary.

Procedure 5

As part of the information mentioned in procedure 4 above, Member States are requested to furnish the Secretary-General with:

a/ United Nations, Treaty Series, vol. 75, Nos. 970-973.

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

(b) Statistics, data and descriptive material on detention programmes, detention personnel and the number of persons under detention in the various programmes and facilities.

Commentary:

This requirement is part of the existing mandate which is cited in the commentary on draft procedure 4 above. Even though the items of information requested herein are not specifically mentioned in the Rules, they are within the meaning of the survey authority. This request for information is analogous to the existing periodic reporting system on human rights originally established by the Economic and Social Council in resolution 624 B (XXII) of 1 August 1956. The Council also provided for a reporting procedure for the implementation of the Declaration on the Elimination of Discrimination against Women under resolution 1677 (LII) of 2 June 1972. The Single Convention on Narcotic Drugs of 30 March 1961 contains a reporting requirement and the reporting procedure is also an essential part of the International Convention on the Elimination of Racial Discrimination and the International Covenant on Civil and Political Rights.

Dissemination of information

Procedure 6

The Secretary-General shall disseminate the Standard Minimum Rules and the present implementing procedures in all the United Nations official languages and make them available to all Member States and non-governmental organizations concerned in order to ensure the widest reach of the Rules.

Commentary:

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

Procedure 7

The Secretary-General shall disseminate to Member States periodic reports, including analytical summaries of his periodic surveys, reports of the Committee on Crime Prevention and Control, reports prepared for United Nations congresses on

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crime prevention and the reports of those congresses, scientific reports and other data as from time to time may be deemed necessary to further the implementation of the Standard Minimum Rules.

Commentary:

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

Procedure 8

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

Commentary:

This procedure is proposed in view of the fact that such inclusions or reference have not been consistently made in the past, as witnessed by the fact that the revised 1973 United Nations publication entitled Human Rights: A Compilation of International Instruments of the United Nations b/ does not contain the Standard Minimum Rules.

Procedure 9

As part of its technical assistance or development programme the United Nations shall:

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

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

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

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

b/ United Nations publication, Sales No. E.73.XIV.2.

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Commentary:

The purpose of procedure 9 is to ensure that the United Nations technical assistance programmes and the training activities of regional institutes are used as indirect instruments for the enforcement of the Standard Minimum Rules and the present procedures for implementation. Apart from regular training courses for correctional personnel, training manuals and the like, particularly at the policy-making level, provision should be made for expert advice on questions submitted by Member States, including an expert referral system to interested States.

The role of the Committee on Crime Prevention and Control

Procedure 10

The Committee on Crime Prevention and Control shall:

- (a) Review from time to time, as may be needed, the Standard Minimum Rules and the present implementing procedures and recommended appropriate changes;
- (b) Elaborate rules, standards and procedures applicable to emerging and new forms and methods of treatment of persons deprived of liberty;
- (c) Make policy recommendations to the Secretary-General and the appropriate organs of the United Nations in the field of corrections.

Enforcement

Procedure 11

Nothing in these procedures is to be construed as precluding resort to any other means of enforcement available under international law or set forth by other United Nations bodies and agencies for redress of violations of human rights.

Procedure 12

Communications relating to violations of the Standard Minimum Rules for the Treatment of Prisoners may be communicated to the Secretary-General. Under existing procedures for dealing with communications relating to violations of human rights and fundamental freedoms, the Commission on Human Rights may consider particular situations which appear to reveal a consistent pattern of gross and reliably attested violations of human rights referred to it by the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

Commentary:

The procedure is that established by the Economic and Social Council in resolution 1503 (XLVIII) of 27 May 1970.

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Procedure 13

The Committee on Crime Prevention and Control shall assist the General Assembly and the Secretary-General, when requested, with recommendations relating to reports of ad hoc inquiry commissions, whenever they are appointed, with respect to matters pertaining to the Standard Minimum Rules and their application and implementation.

**END**