

Minimum Standard Guidelines for Australian Prisons

Discussion Paper Edited by
C. R. Bevan

 AUSTRALIAN INSTITUTE OF CRIMINOLOGY

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C. R. Bevan

Assistant Director (Training)
Australian Institute of Criminology



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Foreword

This publication is in some ways a landmark in Australian corrections. It represents an attempt by correctional administrators, reform groups and experts to provide for Australia some measure of what human rights ought to mean in the context of imprisonment.

This document was drafted by a committee set up as a result of a seminar on penal philosophy conducted by the Australian Institute of Criminology in 1976. This seminar established ongoing relationships between those carrying responsibilities for corrections and those most vociferous in demands for reform.

When prisons are abolished and we have found other ways of dealing with crime, there will be no need to be concerned about the exact meaning of human rights inside the prison, but as long as it is considered necessary to have prisons, if only to segregate the hard core of offenders considered incorrigible or dangerous, then it will be necessary to decide in detail what the conditions in prisons ought to be. In fact, if some of the moves now being made with the approval of the reform groups themselves succeed in obtaining a 'flat', 'fixed' or 'retributive' sentence with no parole, then there might be an increase in the use of imprisonment (as there seems to have been in the United States) and this may mean that we shall have prisons with us longer than many have supposed.

Even those in favour of more severe sentences would rarely intend that a sentence of imprisonment should include floggings, beatings, malnutrition, or degrading human conditions. It is usually expected, however, that the conditions in prison will not be so attractive as to make them desirable places. Where the line can be drawn between these two expectations is the definition of human rights. It has been pointed out by criminologists that it would be almost impossible to provide prison conditions so bad that no one would be better off by being sent to prison. The mere regularity of meals and shelter sometimes places prisoners in a condition which is physically superior to that available to homeless and destitute people outside.

The aim, therefore, must be to give effect to reasonableness and this is something which has occupied the attention of the developing nations of the West for more than 50 years.

In 1929 the International Penal and Penitentiary Commission, which at that time was largely a European body (but with United States membership), published Standard Minimum Rules for the Treatment of Prisoners. In fact, prison regulations drawn up by the individual state members of the IPPC for their own prison services had addressed the problem of appropriate conditions long before 1929 and when the Standard Minimum Rules were drafted, they were based very largely upon existing prison regulations, particularly those then in force in the United Kingdom and in some of the European countries.

In 1949 the Commission voluntarily transferred its work to the United Nations. One of the conditions of this transfer was that the United Nations should continue the five-yearly international congresses which the Commission had been holding since 1872. The first of these congresses held under United Nations auspices was held in Geneva in 1955 and the Congress approved an augmented and enlarged version of the Standard Minimum Rules for the Treatment of Prisoners. This was adopted by the Economic and Social Council of the United Nations in 1957, providing us with a document now known as the United Nations Standard Minimum Rules for the Treatment of Prisoners. This document is not a Convention. It has moral force only, but is extremely influential and when one considers how many Conventions are not ratified or not even signed, it is clear that the United Nations Standard Minimum Rules have considerable status as an international declaration of what is acceptable.

Indeed, the rules have survived many attempts to change them and to convert them into a Convention. Because they were drawn up originally by a group of Western administrators, their relevance to the Third World has frequently been questioned, but Third World countries have consistently supported them in their present form and have resisted any attempt to adjust them to different conditions in the Third World. Where it has been obvious that they could not meet the minimum expectations, the Third World countries have nevertheless preferred to have the rules in existence as a standard to achieve.

On the other hand, the European nations have considered that they were in a position to up-grade the rules, because the conditions in European prisons have improved since the rules were originally drafted. However, attempts by the Council of Europe to change the rules to take account of different European conditions have meant very minor changes. The last working party to review the United Nations

Standard Minimum Rules was held in the early 1970s in New York and came to the conclusion that no changes should be made. The working party also suggested that there was little to be gained by seeking to change the rules as they now stood into a Convention. As they are now, the rules do not require ratification or formal acceptance, but stand as a general and moral guide on humane conditions in penal institutions.

It was foreseeable, therefore, that the idea of adapting these rules to Australian conditions would mean few, if any, changes in the United Nations Standard Minimum Rules. However, there were ways in which the rules, as principles, could be given specific interpretation and this has sometimes been done in this publication.

It is important, however, to remember that any rules or guidelines are subject to interpretation and there may be future conflict on the exact meaning and implication of certain of the guidelines now published. Again, it is clear that the United Nations Standard Minimum Rules are not being observed across the world. Sometimes the resources for faithful observance just do not exist and there are cultural situations in which the physical conditions would be inappropriate. Segregation can mean desirable privacy in some cultures and a very painful isolation in others. The definition of 'prisoner' in the rules was meant to refer to persons held in institutions but there are situations today in which a person is legally a prisoner but in fact is working and living in the community. These guidelines should not, therefore, be taken as absolute, and working rigidly to the guidelines could be as detrimental to correctional systems as working to rule can be a very effective form of industrial disruption. The guidelines were never intended to be law or to be treated as absolute. They always were rules for guidance and they have their greatest effect when used in this way. There are situations, for example, in which one could go well beyond the limitations of the guidelines in providing for the comfort, security and dignity of a person who is held in prison. It would be unfortunate if authorities were restricted in making such improvements because of the guidelines. On the other hand, the guidelines cannot themselves produce the revenue for their invariable implementation at the most desirable levels, so ultimately a political decision has to be made, since resources may have to be diverted from other community projects to the correctional services.

Nevertheless, with all these qualifications, the guidelines as now published, providing an Australian basis for interpreting human rights in prison conditions, are very important for the future of corrections in this country. With its history as a penal colony, Australia should seek

eventually to provide leadership in penal philosophy, but to do this, it must have its own standards and bases for development.

In particular, this publication owes a great deal to the foresight, compassion and diplomacy of Mr Colin Bevan, the Australian Institute of Criminology's Assistant Director in charge of training. He has worked assiduously to produce this publication and has drawn upon his long experience in the correctional field to make its provisions realistic. It is also a publication reflecting great credit on the correctional administrators and the reformists who have cooperated in its production and who have agreed to its publication as a discussion paper.

WILLIAM CLIFFORD

Director

Australian Institute of Criminology

November 1978

Preface

This publication would not have materialised but for the interested concern of a number of people in Australia. They include prison administrators, prison officers, ex-prisoners, academic lawyers and criminologists. My grateful thanks are also due to Bill Clifford, Director of the Australian Institute of Criminology, for his encouragement and support, to Maureen Kingshott for compiling the index and to Alex Watt and Mark Filan for their patient interest and willing assistance.

C. R. BEVAN

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Preliminary Observations

1 In May of 1976 the Australian Institute of Criminology conducted a seminar entitled 'Penal Philosophies and Practices in the 1970s'. Participants included heads of prison services throughout Australia, prison officers nominated by prison officer unions in all States and Territories, ex-prisoners, prisoners' action groups, the New South Wales Law Foundation and Council for Civil Liberties, the Prisoners' Aid Association of South Australia and visiting experts from Canada, Sweden and New Zealand.

2 Conscious of the repeated expressions of a number of world authorities at United Nations Congresses on the Prevention of Crime and Treatment of Offenders of a need for a revision of the United Nations Rules and of the obvious difficulties in setting international norms for prison management because of political, social and cultural differences throughout the world, this seminar resolved to establish a working party to draft minimum standard guidelines for Australian prisons.

3 In compiling the minimum standard guidelines for Australian prisons the working party closely examined:

(a) The United Nations Standard Minimum Rules for the Treatment of Prisoners and related recommendations.

(b) The standards proposed by the United States National Advisory Commission on Criminal Justice Standards and Goals.

(c) The Standard Minimum Rules for the Treatment of Prisoners devised by the Council of Europe at Strasbourg in 1973.

(d) Recent developments in judicial attitudes towards prisoners' rights in Australia.

(e) Employment, labour and industry in Australian prisons.

(f) The Manual of Correctional Standards published by the American Correctional Association.

4 These minimum standard rules are based principally on the United Nations Standard Minimum Rules for the Treatment of Prisoners and related recommendations and the Council of Europe Standard Minimum Rules, which have been modified to accommodate current trends in correctional thought in Australia.

5 These rules seek to set standards for the conduct of prisons in Australia that duly reflect a respect for human dignity that includes concern for the needs of inmates, officers, visitors and administrators.

Part 1 — Rules of General Application

Basic Principles

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

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

(c) Prisoners shall at all times be addressed in a fashion commensurate with the respect due to them as human beings.

Register

7 (a) In every place where persons are imprisoned there shall be maintained a permanent system of registration in which shall be entered in respect of each person received:

- (i) Information concerning identity.
- (ii) The reasons for commitment and the authority therefor.
- (iii) The day and hour of admission and release.

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

(c) A prisoner's file should be made available to him or her upon request, except where the information disclosed would endanger life or physical safety or prove prejudicial to the security and/or good order of the institution.

Distribution of Prisoners

8 When prisoners are being allocated to different institutions, due account shall be taken of their judicial and legal situation (untried or convicted, first offender or habitual offender, short sentence or long sentence), of their physical condition (young, adult, sick), their mental

condition (normal or abnormal), their sex, age and, in the case of convicted prisoners, the special requirements of their management.

(a) Men and women shall, in principle, be detained separately; this principle shall be departed from only as part of an established activity programme.

(b) Young prisoners shall be detained under conditions which protect them from harmful influences and which take account of the needs peculiar to their age.

Accommodation

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

(b) Where a system of dormitories is used they shall not be occupied by prisoners who are found to be not entirely suited to them or by individual prisoners who object to the arrangement.

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

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

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

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

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

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

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

Personal Hygiene

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

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

Clothing and Bedding

17 (a) Every prisoner who is not allowed to wear his own clothing shall be provided with a prison uniform that is in no manner degrading or humiliating for compulsory use during ordinary working hours and during the hours when authorised civilians are likely to be moving within the institution.

(b) Prisoners shall be issued with specially provided dress or permitted the use of personal clothing for leisure activities and visits and in exceptional circumstances whenever a prisoner is allowed outside the institution for an authorised purpose.

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

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

19 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.

Food

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

(b) Drinking water shall be reticulated to every cell so that fresh drinking water shall be available to every prisoner whenever he or she needs it.

Exercise and Sport

21 (a) Every prisoner who is not employed in outdoor work shall have the opportunity for an absolute minimum of one hour of suitable exercise in the open air daily, if the weather permits.

(b) All prisoners shall have daily exercise and physical and recreational training. To this end space, installations and equipment should be provided.

Medical Services

22 (a) At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organised in close relationship to the general health administration of the community. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.

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

(c) The services of a qualified dentist shall be available to every prisoner.

(d) Prisoners may receive treatment from private health personnel provided they can meet the costs.

(e) A buzzer or some such alarm system should be provided for each cell or room in case of serious illness.

(f) Any experimentation, medical or scientific, which may be regarded as injurious to the prisoner shall be prohibited.

(g) Where a prisoner is under medical treatment upon commencing a term of imprisonment he or she shall be permitted to maintain contact, through the prison medical service, with the medical service which was treating him previously.

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

(b) Nursing infants shall be allowed to remain in the institution with their mothers. Provision shall be made for a nursery, staffed

by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

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

25 (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 physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

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

- (i) The quantity, quality, preparation and service of food.
- (ii) The hygiene and cleanliness of the institution and the prisoners.
- (iii) The sanitation, heating, lighting and ventilation of the institution.
- (iv) The suitability and cleanliness of the prisoners' clothing and bedding.
- (v) The observance of the rules concerning physical education and sports in cases where there is no technical personnel in charge of these activities.

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

Discipline and Punishment

27 (a) Discipline and order shall be maintained in the interest of safe custody and well-ordered community life.

(b) Collective punishment shall be prohibited.

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

(b) This guideline shall not, however, impede the proper functioning of systems based on self-government under which specified social, educational or sports activities or responsibilities are entrusted under supervision to prisoners who are formed into groups for these purposes, which may include the organisation and execution of work.

29 (a) Solitary confinement, corporal punishment, punishment by placing in a dark cell and all cruel, inhuman or degrading punishment shall be completely prohibited.

(b) Punishment by reduction of diet, sensory deprivation or any other action that may be prejudicial to the physical or mental health of a prisoner shall never be inflicted.

30 While confinement to a separate area to facilitate the withdrawal of privileges as a disciplinary measure is acknowledged, the superintendent and the medical officer shall daily visit prisoners undergoing disciplinary confinement and shall advise the central administration if they consider the termination or alteration of the punishment necessary on grounds of physical or mental health.

31 The following shall always be determined by law:

(a) Conduct constituting a disciplinary offence.

(b) The types and duration of punishment which may be imposed.

(c) The authority competent to impose such punishment.

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

(b) Reports of misconduct shall be presented promptly to the competent authority who shall decide on them without delay.

(c) No prisoner shall be punished unless he has been informed in writing of the offence alleged against him in language he can understand and given a proper opportunity to present his defence.

(d) The prisoner shall be allowed to make his defence through an interpreter.

(e) Where the act is such that the penalty could entail an extra sentence of imprisonment other than loss of remissions there shall occur a full judicial hearing with right to legal representation.

Instruments of Restraint

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

(a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority.

(b) On medical grounds by direction of the medical officer.

(c) By order of the director of the institution, if other methods of control fail, in order to prevent a prisoner from injuring him or herself or others or from damaging property. In such instances the director shall at once consult the medical officer and report to the higher administrative authority.

34 The patterns and manner of use of the instruments of restraint authorised in paragraph 33 shall be decided by the central prison administration. Such instruments must not be applied for any longer time than is strictly necessary.

Information to and Complaints by Prisoners

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

(b) If a prisoner is illiterate, or for any other reason cannot understand the written information provided, the aforesaid information shall be conveyed orally in his or her own language.

36 (a) Every prisoner shall have the opportunity each day of making requests or complaints to the director of the institution or the officer authorised to represent him or her.

(b) It shall be possible to make requests or complaints to an inspector of prisons during inspection. The prisoner shall have the opportunity to talk to the inspector or to any other duly constituted authority entitled to visit the prison without the director of the institution or other members of the staff being present.

(c) Every prisoner shall be allowed to make requests or com-

plaints, under confidential cover to the central prison administration, the judicial authority, ombudsman or other proper authorities.

(d) Unless it is obviously frivolous or groundless, every request or complaint addressed or referred to a prison authority shall be promptly dealt with and replied to by this authority without undue delay.

Contact with the Outside World

37 Subject only to such restrictions and supervision as are necessary in the interests of their management, and the security and good order of the institution, prisoners shall be allowed regular visits from, and communication with, their families, friends and representatives of organisations, and access to public telephones.

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

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

39 Prisoners shall be allowed to keep themselves informed regularly of the news by the reading of newspapers, periodicals or special institutional publications, by radio or television transmissions, by lectures or by any similar means as authorised or controlled by the administration.

Books

40 All categories of prisoners shall have access to a library adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.

Religion

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

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

(b) A qualified representative appointed or approved under paragraph 42(a) shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his or her religion at proper times.

Retention of Prisoners' Property

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

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

(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 shall be made of them.

Notification of Death, Illness, Transfer, etc.

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

(b) A prisoner shall be informed at once of the death or serious illness of any near relative. In these cases and whenever circumstances allow, the prisoner should be authorised to go to this sick relative or see the deceased either under escort or alone.

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

Removal of Prisoners

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

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

(c) The transport of prisoners shall be carried out at the expense of the administration and in accordance with regulations which it shall draw up.

Institutional Personnel

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

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

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

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

(b) On recruitment, or as soon as possible thereafter, the personnel shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests.

(c) During their career, the personnel shall maintain and improve their knowledge and professional capacity by attending courses of in-service training to be organised by the central administration at suitable intervals.

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

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

(b) Social workers, teachers and trade instructors shall be employed on a permanent basis. This shall not preclude part-time or voluntary workers.

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

(b) The director of an institution shall devote his or her entire time to official duties and shall not be appointed on a part-time basis.

51 (a) The superintendent and deputy superintendent shall have freely available the services of interpreters.

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

52 Medical services shall be available twenty-four hours a day.

53 Special care should be taken in the appointment and supervision of staff in institutions or parts of institutions housing prisoners of the opposite sex.

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

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

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

Inspection and Control

55 (a) There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these

institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal services.

(b) The protection of the individual rights of prisoners with special regard to the legality of the execution of detention measures shall be secured by means of a control carried out, according to national rules, by a judicial authority or other duly constituted body authorised to visit the prisoners and not belonging to the prison administration.

Part 2 — Rules Applicable to Special Categories of Prisoners

Prisoners Under Sentence — Guiding Principles

56 These guiding principles are intended to show the spirit in which penal institutions should be administered and the goals at which administrators should aim in accordance with the declaration made in the preliminary observations of this document.

57 Imprisonment and other measures which result in cutting off an offender from the outside world are, by the deprivation of liberty, a punishment in themselves. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation. The regime of the institutions should seek to minimise any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.

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

59 (a) To this end the institution should utilise all the remedial, educational, welfare and recreational influences and forms of assistance which are appropriate and available and should seek to apply them in accordance with the individual needs of prisoners. Prisoners should be able to choose not to partake of the prison programmes available and should suffer no disadvantages or recriminations thereby.

(b) Communication between prisoners and staff shall be facilitated in order to prevent and cope with tensions which may occur in prison communities and to encourage the prisoners' acceptance of programmes.

60 It is desirable that the necessary steps be taken to prepare the prisoner for a gradual return to life in society. This aim may be achieved, in particular, by a pre-release regime organised in the same institution or in another appropriate institution, or by release on trial under some kind of supervision combined with effective social aid.

61 The supervision of prisoners should emphasise not their exclusion from the community, but their continuing part in it. Community agencies should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of re-integration of the prisoners. There should be in connection with every institution, trained staff charged with the duty of maintaining and improving all desirable relations of prisoners with their families and with valuable social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the prisoners' rights relating to civil interests, social security rights and other social benefits.

62 The medical services of the institution shall seek to detect any physical or mental illness or defects in prisoners and make available all necessary treatment.

63 (a) The fulfilment of these guiding principles requires individualisation of management and, for this purpose, a flexible system of allocating prisoners. It is therefore desirable that prisoners be placed in separate institutions or sections where each can receive the appropriate supervision.

(b) These institutions and units should be of various types. It is desirable to provide varying degrees of security according to need. Open institutions, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to rehabilitation for carefully selected prisoners.

(c) It is desirable that the number of prisoners in closed institutions should not be so large that individualised management is hindered. In general it is desirable that the population of such institutions should not exceed two hundred and fifty.

64 The duty of society does not end with a prisoner's release. There should, therefore, be governmental and private agencies capable of providing efficient after-care for released prisoners and directed towards lessening prejudice against them and towards their social rehabilitation.

Classification of Prisoners

65 The purpose of classification of prisoners shall be:

(a) To place the prisoners so as to facilitate their supervision, taking into account security requirements and their social needs.

(b) To separate from others those prisoners who, by reason of their criminal records or their personality, are likely to exercise a bad influence.

66 As soon as possible a programme shall be prepared for each prisoner in the light of the knowledge obtained about individual needs, capacities and interests.

Work

67 (a) Prison labour must not be of a punitive nature. Prisoners shall not be asked to do any especially dangerous or unhealthy work.

(b) Prisoners under sentence may work, subject to their physical and mental fitness as determined by the medical officer and to their needs for education at all levels and the needs of their devised programmes.

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

(d) So far as possible the work provided shall be such as will maintain or increase the prisoner's ability to earn a normal living after release.

(e) Vocational and educational training for useful trades shall be provided for prisoners.

(f) 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.

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

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

69 (a) Preferably, institutional industries and farms should be operated directly by the administration, but where prisoners are employed in work not controlled by the administration they shall always be under the supervision of the institution's personnel.

(b) Work release programmes should be made available wherever practicable.

70 (a) The precautions laid down to protect the safety and health of free workers shall be equally observed in institutions.

(b) Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms no less favourable than those extended by law to free workers.

71 The hours of work fixed shall leave two rest days a week and sufficient time for education and other activities required for prisoners' individual programmes. Prisoners may volunteer to work longer hours and more days per week.

72 (a) There shall be a system of equitable remuneration for the work of prisoners.

(b) Under the system prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to allocate a part of their earnings to their family or for other approved uses.

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

Education, Recreation and After-Care

73 (a) Provision shall be made for the further education of prisoners. Special attention shall be given by the Administration to the education of illiterates, young prisoners and those with language difficulties.

(b) So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

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

75 From the beginning of sentence, consideration shall be given to prisoners' futures after release and they shall be encouraged and assisted to maintain or establish such relations with relatives and other persons or agencies outside the institution as may promote the best interests of their families and their social rehabilitation.

76 (a) Effective services and agencies shall be set up to assist released prisoners to re-establish themselves in society, in particular with regard to work.

(b) Steps must be taken to ensure that on release prisoners are provided, as necessary, with appropriate documents and identification papers, have suitable homes and work to go to, are provided with immediate means of subsistence, are suitably and adequately clothed having regard to the climate and season, and have sufficient means within reason to reach their destination.

Insane and Mentally Abnormal Prisoners

77 (a) Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to appropriate establishments for the mentally ill as soon as possible.

(b) Specialised facilities under medical management should be available for the observation and treatment of prisoners suffering gravely from other mental disease or abnormality.

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

78 Steps should be taken, by arrangement with the appropriate agencies, to ensure where necessary the continuation of psychiatric treatment after release and the provision of social and/or psychiatric after-care.

Prisoners Under Arrest or Awaiting Trial

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

(b) Without prejudice to legal rules for the protection of individual liberty or prescribing the procedure to be observed in respect of untried prisoners, these prisoners, who are presumed to be innocent until they are found guilty, shall be treated without restrictions other than those necessary for prison organisation and the security of the institution.

80 (a) Untried prisoners shall not be put in contact with convicted prisoners against their will.

(b) Young untried prisoners shall be detained under conditions which protect them from harmful influences and which take account of the needs peculiar to their age.

81 Untried prisoners shall be given the opportunity of having separate rooms.

82 (a) In accordance with the standards laid down by the health authorities, the administration shall provide the untried prisoners at the normal times with food which is suitably prepared and presented and which satisfies in quality and quantity the standards of dietetics and modern hygiene and takes into account, as far as possible, any requirements based on philosophical and religious beliefs.

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

83 (a) Untried prisoners shall be given the opportunity of wearing their own clothing, if it is clean and suitable.

(b) If they do not avail themselves of this opportunity, they shall be supplied with suitable dress.

(c) If they have no suitable clothing of their own, untried prisoners shall be provided with civilian clothing in good condition in which to appear in court or on outings organised under the regulations.

84 Untried prisoners shall always be offered opportunity to work, but shall not be required to work. If they choose to work, they shall be paid for it.

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

86 Untried prisoners shall be given the opportunity of being visited and treated by their own doctor or dentist if there is reasonable ground for the application and they are able to pay.

87 Untried prisoners shall be allowed to inform their families of their detention immediately, and shall be given all reasonable facilities, including access to telephones, for communicating with family and friends and persons with whom it is to their legitimate interest to enter into contact and for receiving visits from them under conditions that are fully satisfactory from the human point of view, subject only to such restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.

88 Untried prisoners shall be entitled, as soon as they are imprisoned, to choose a legal representative, or shall be allowed to apply for free legal aid where such aid is available, and to receive visits from legal advisers with a view to their defence and to prepare and hand to them, and to receive, confidential instructions. At their request they shall be given all necessary facilities for this purpose. In particular, they shall be given the free assistance of an interpreter for all essential

contacts with the administration and for their defence. Interviews between the prisoners and their legal advisers may be within sight but not within hearing, either direct or indirect, of a police or institution official.

Civil Prisoners

89 Wherever 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 not be less favourable than that of untried prisoners, with the reservation, however, that they may work.

Part 3 —

Selection and Training of Personnel for Penal and Correctional Institutions

Modern Conception of Prison Service

90 *Prison Service in the Nature of a Social Service*

(a) Attention is drawn to the change in the nature of prison staffs which results from the development in the conception of their duty from that of guards to that of members of an important social service demanding ability, appropriate training and good team work on the part of every member.

(b) An effort should be made to arouse and keep alive in the minds both of the public and of the staff an understanding of the nature of modern prison service. For this purpose all appropriate means of informing the public should be used.

91 *Specialisation of Functions*

(a) This new conception is reflected in the tendency to add to the staff an increasing number of specialists, such as doctors, psychiatrists, psychologists, social workers, teachers, technical instructors.

(b) This is a healthy tendency and it is recommended that it should be favourably considered by governments even though additional expense would be involved.

92 *Co-ordination*

(a) The increasing specialisation may, however, hamper an integrated approach to the treatment of prisoners and present problems in the co-ordination of the work of the various types of specialised staff.

(b) Consequently, in the treatment of prisoners it is necessary to ensure that all the specialists concerned work together as a team.

(c) It is also considered necessary to ensure, by the appointment of a co-ordinating committee or otherwise, that all the specialised services follow a uniform approach. In this way the members of the staff will also have the advantage of gaining a clearer insight into the various aspects of the problems involved.

Status of Staff and Conditions of Service

93 *Public Service Status*

Full-time prison staff should have the status of public servants, that is, they should:

(a) Be employed by the government of the country or state and hence be governed by public service rules.

(b) Be recruited according to certain rules of selection such as competitive examination.

(c) Have security of tenure subject only to good conduct, efficiency and physical fitness.

(d) Have permanent status and be entitled to the advantages of a public service career in such matters as promotion, social security, allowances, and retirement or pension benefits.

94 *Full-time Employment*

(a) Prison staff, with the exception of certain professional and technical grades, should devote their entire time to their duties and therefore be appointed on a full-time basis.

(b) In particular, the post of director of an institution must not be a part-time appointment.

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

95. *Conditions of Service in General*

(a) The conditions of service of institutional staff should be sufficient to attract and retain the best qualified persons.

(b) Salaries and other employment benefits should not be arbitrarily tied to those of other public servants but should be related to the work to be performed in a modern prison system, which is complex and arduous and is in the nature of an important social service.

96. *Non-Military Organisation of the Staff*

(a) Prison staff should be organised on civilian lines with a division into ranks or grades as this type of administration requires.

(b) Custodial staff should be organised in accordance with the

disciplinary rules of the penal institution in order to maintain the necessary grade distinctions and order.

(c) Staff should be specifically recruited and not seconded from the armed forces or police or other public services.

97 *Carrying of Arms*

(a) Except in special circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed.

(b) Staff should in no circumstances be provided with arms unless they have been trained in their use.

(c) It is desirable that prison staff should be responsible for guarding the enclosure of the institution.

Recruitment of Staff

98 *Competent Authority and General Administrative Methods*

(a) As far as possible, recruitment should be centralised and be under the direction of the superior or central prison administration.

(b) Where other state bodies such as a public service commission are responsible for recruitment, the prison administration should not be required to accept a candidate whom they do not regard as suitable.

99 *General Conditions of Recruitment*

(a) The prison administration should be particularly careful in the recruitment of staff, selecting only persons having the requisite qualities of integrity, a humanitarian approach, competence and physical fitness.

(b) Members of the staff should be able to speak the language of the greatest number of prisoners or a language understood by the greatest number of them.

100 *Custodial Staff*

(a) The educational standards and intelligence of custodial staff should be sufficient to enable them to carry out their duties effectively and to profit by whatever in-service training courses are provided.

(b) Suitable intelligence, vocational and physical tests for the scientific evaluation of the candidates' capacities are recommended in addition to the relevant competitive examinations.

(c) Candidates who have been admitted should serve a probationary period to allow the competent authorities to form an opinion of their personality, character and ability.

101 *Higher Administration*

Special care should be taken in the appointment of persons who are to fill posts in the higher administration of the prison services. Only persons who are suitably trained and have sufficient knowledge and experience should be considered.

102 *Directors or Executive Staff*

(a) The directors or assistant directors of institutions should be adequately qualified for their functions by reason of their character, administrative ability, training and experience.

(b) They should have a good educational background and a vocation for the work. The administration should endeavour to attract persons with specialised training which offers adequate preparation for prison service.

103 *Specialised and Administrative Staff*

(a) The staff performing specialised functions, including administrative functions, should possess the professional or technical qualifications required for each of the various functions in question.

(b) The recruitment of specialised staff should therefore be based on the professional training diplomas or university degrees evidencing their special training.

Professional Training

104 *Training Prior to Final Appointment*

Before beginning duty, or as soon as possible thereafter, staff should be given a course of training in their general duties, with a view particularly to social problems, and in their specific duties, and be required to pass theoretical and practical examinations.

105 *Custodial Staff*

(a) A programme of intensive professional training for custodial staff is recommended. The following might serve as an example for the organisation of such training in three stages:

(b) The first stage should take place in a penal institution, its aim being to familiarise the candidate with the special problems of the profession and at the same time to ascertain whether he possesses the necessary qualities. During this initial phase, the candidate should not be given any responsibility, and his work should be constantly supervised by a member of the regular staff. The director should arrange an elementary course in practical subjects for the candidates.

(c) During the second stage, the candidate should attend a school or course organised by the superior or central prison administration, which should be responsible for the theoretical and practical training of officers in professional subjects. Special attention should be paid to the technique of relations with the prisoners based on the elementary principles of psychology and criminology. The training courses should, moreover, comprise lessons on the elements of penology, prison administration, penal law and related matters.

(d) It is desirable that during the first two stages candidates should be admitted and trained in groups, so as to obviate the possibility of their being prematurely employed in the service and to facilitate the organisation of courses of training.

(e) The third stage, intended for candidates who have satisfactorily completed the first two stages and have shown the greatest interest and a vocation for the service, should consist of actual service during which they would be expected to show that they possess all the requisite qualifications. They should also be offered an opportunity to attend more advanced training courses in psychology, criminology, penal law, penology and related subjects.

106 *Directors or Executive Staff*

Where persons with no previous experience of the work but with proved experience in similar fields are recruited as directors or assistant directors, they should, before taking up their duties, receive theoretical training and gain practical experience of prison work for a reasonable period, it being understood that a diploma granted by a specialised vocational school or a university degree in a relevant subject may be considered as sufficient theoretical training.

107 *Specialised Staff*

The initial training to be required from specialised staff is determined by the conditions of recruitment, as described in paragraph 103 above.

108 *Regional Training Institutes for Prison Personnel*

The establishment of regional institutes for the training of the staff of penal and correctional institutions should be encouraged.

109 *Physical Training and Instruction in the Use of Arms*

(a) Prison officers shall be given special physical training to enable them to restrain aggressive prisoners by the means prescribed by the authorities in accordance with the relevant rules and regulations.

(b) Officers who are provided with arms shall be trained in their use and instructed in the regulations governing their use.

110 *In-Service Training*

(a) After taking up their duties and during their career, staff should maintain and improve their knowledge and professional capacity by attending advanced courses of in-service training which are to be organised periodically.

(b) The in-service training of custodial staff should be concerned with questions of principle and technique rather than solely with rules and regulations.

(c) Whenever any type of special training is required it should be at the expense of the state and those undergoing training should receive the pay and allowances of their grade. Supplementary training to fit the officer for promotion may be at the expense of the officer and in his or her own time.

111 *Discussion Groups, Visits to Institutions, Seminars for Senior Personnel*

(a) For senior staff, group discussions are recommended on matters of practical interest rather than on academic subjects, combined with visits to different types of institutions, including those outside the penal system. It would be desirable to invite specialists from other countries to participate in such meetings.

(b) It is also recommended that exchanges be organised between various countries in order to allow senior personnel to obtain practical experience in institutions of other countries.

112 *Joint Consultation, Visits and Meetings for all Grades of Staff*

(a) Methods of joint consultation should be established to enable all grades of prison personnel to express their opinion on the methods used in the treatment of prisoners. Moreover, lectures, visits to other institutions and, if possible, regular seminars should be organised for all categories of staff.

(b) It is also recommended that meetings should be arranged at which the staff may exchange information and discuss questions of professional interest.

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