

## **I. INTRODUCTION**

The Human Rights Commission (hereinafter called "the Commission") is a constitutional body established under Part XII of the Constitution of the Republic of Zambia. Its powers and functions are provided for in the Human Rights Commission Act No. 39 of 1996 (hereinafter called "the Act"). Under the Act, the Commission has a broad mandate to monitor, promote and protect human rights under Sections 9 and 10. Section 9 of the Act mandates the Commission, *inter alia*, to visit prisons and places of detention or related facilities with a view to assessing and inspecting conditions of the persons held in such places and make recommendations to redress existing problems.

From 7 to 24 June 2004, the Commission visited all the prisons and police cells in Lusaka Province. The conditions prevailing in these places of detention clearly indicated that Lusaka Province's prisons and detention facilities fell below the international standards as stipulated in the 1955 United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR). The SMR constitute the international community's agreed minimum standards on the treatment of prisoners. Zambia ascribes to the SMR by virtue of being a Member State of the United Nations. The SMR contain, *inter alia*, rules on:

- Separation of categories of inmates
- Accommodation
- Personal hygiene
- Clothing and bedding
- Food
- Medical services
- Discipline and punishment

The problems identified by the Commission during the visits ranged from congestion, filth, lack of clean water and inadequate food, to inhabitable and dilapidated facilities.

## **II. OBJECTIVES**

The prison and police cells visits were motivated by the following objectives:

- (i) To assess the condition and management of Lusaka Province detention facilities.
- (ii) To make recommendations to relevant authorities on the continued effort in the realization of the Standard Minimum Rules for the Treatment of Prisoners.

## **III. GENERAL FINDINGS**

During the visits, the Commission took time to assess the living conditions of inmates and had an opportunity to interview as many inmates as possible. Apart from information relating to the welfare of inmates, the Commission also took time to assess the conditions under which police officers work.

### **(a) Accommodation**

The Commission found that the general state of the prison cells and dormitories at Kamwala, Lusaka Central and Mwembeshi Prisons fell below the requirements of the SMR. The cells and dormitories were filthy, congested and unfit for human habitation. Rule 10 of the SMR states that, *"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 the climatic conditions and particularly to cubic content of air, minimum floor space, lighting and ventilation."*

At these three prisons, inmates did not have enough floor space to enable them spend their nights comfortably. For instance, at Lusaka Central Prison, space meant for 200 inmates was occupied by 1,435 inmates. This effectively meant that inmates had to spend nights in a sitting position. Most of the dormitories visited had no blankets and mattresses. Prisoners "slept" directly on the cold floor throughout the night. It came to the attention of the Commission that the few available blankets and mattresses were reserved for use only by cell captains.

### **(b) Juvenile Inmates**

The problem of accommodation has made it difficult to separate juvenile inmates from adult inmates. The Commission found that there were insufficient purpose built facilities for juvenile suspects. This, coupled with the problems of transport in the Police Service, led to juveniles being detained in the same cells as adult suspects.

Section 60 of the Prisons Act requires, *inter alia*, that young prisoners be kept apart from adults and other classes of prisoners. Rule 8(d) of the SMR also provides that, *"young prisoners shall be kept separate from adults."*

### **(c) Toilet and Sanitation Facilities**

Most of the toilets in the cells and/or dormitories were found to be dirty. The Commission found that there was a critical shortage of water in most facilities that were visited. In addition, there was no privacy and inmates answered the call of nature in full view of others. This is contrary to Rule 12 of the SMR which states that, *"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."*

### **(d) Food and Nutrition**

The Commission also observed that inmates did not have adequate food both in quality and quantity. Inmates had a daily ration of nshima and beans for their combined lunch and supper and a breakfast of rice with salt. Apart from being poorly prepared, the meals were not enough to sustain an individual throughout the day. Rule 65 of the Prisons Rules require, *inter alia*, that the prison authorities are responsible for ensuring that every article of food supplied to the prisoners is sound and of good quality. Rations must also be issued in strict accordance with the prescribed scales of diet and that every prisoner receives the diet to which he is entitled.

Rule 20(1) of the SMR states that *"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."* Rule 20(2) says that, "*drinking water shall be available to every prisoner whenever he needs it.*"

The Commission found that no food was provided by the State for suspects in police cells. Instead, they relied on food provided by relatives or friends. The Commission also found that a number of inmates in police cells had been detained without the knowledge of relatives, with the result that no food was brought for such inmates.

**(e) Mentally Ill Inmates**

The Commission found four inmates of unstable mind in custody at Lusaka Central (*Chimbokaila*) Prison. Rules 27, 42 and 204 of the Prisons Rules mandate prison officers and other appropriate authorities to report the fact or existence of mentally unsound prisoners. According to Section 60 of the Prisons Act, persons of unsound mind are classified on their own and must be provided separate accommodation. Rule 82(1) of the SMR provides that persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible.

**(f) Court Appearance**

The Commission found that a considerable number of detainees were not appearing before the courts. Several of them complained about delays ranging from missing indictments, slow rate of disposing cases in the courts to unexplained adjournments of up to five months in some cases. As Appendix B indicates, the Commission found that 978 of the inmates at Lusaka Central had not yet had their cases determined in court.

The Constitution of Zambia states, *inter alia*, in Article 13(3) that any person who is arrested or detained upon reasonable suspicion of his having committed or about to commit a criminal offence shall be brought without undue delay before a court. Section 108 of the Criminal Procedure Code (CPC) also provides that a person who is arrested must, without unnecessary delay, be brought before the court.

**(g) Female Inmates with Infants**

The Commission found mothers with infants as young as two days old at Lusaka Central Prison sharing the same facilities with other inmates. The Commission also found that there was no special provision for nursing inmates and their infants. Section 56 of the Prisons Act states that infants of women prisoners may be supplied with clothing and other necessities.

**(h) Working Conditions for Officers**

The Commission found that the conditions under which police officers served were unfavourable. For instance, there was inadequate housing, transport and communication equipment. These conditions affect the morale of officers and have a direct bearing on how they deal with the human rights of suspects.

**(i) Treatment of Suspects**

The Commission found that police still widely used torture as a means of extracting confessions from suspects. Torture is prohibited in Article 15 of the Constitution of Zambia and by international human rights instruments to which Zambia is a party, in particular the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984* and the *International Covenant on Civil and Political Rights (ICCPR) 1966*.

**(j) Police Bond**

The Commission discovered that police officers have problems giving police bond to suspects for various reasons. First of all, many officers do not consider the issuance of police bond as a right to the inmates. They consider it as a privilege and something that happens only when they want to do it. Even where a suspect has proper sureties to sign for it the police are still hesitant to give bond. This does not only infringe on the rights of suspects but also causes unnecessary congestion in police cells. It is, therefore, important that at the time of conducting a formal arrest, officers should be obliged to explain to the suspects their rights in full.

**IV. SPECIFIC FINDINGS**

**1. STATE OF PRISONS**

**(a) Kamwala Remand Prison**

Kamwala Remand Prison was constructed in 1958. It was built with a holding capacity of 200 inmates. At the time of the Commission’s visit on 7 June 2004, there were 815 inmates. Table 1 below gives a breakdown of the inmate statistics.

**Table 1: Information relating to inmates as at 7 June 2004**

TYPE OF INMATES	MALE
Remand	666
Convicts	58
Aged	-
Terminally ill	-
Juveniles	35
Children under 12 years of age	-
Mothers with children	-
Prohibited immigrants	55
Delayed cases	Appendix A

**General State of Kamwala Remand**

As indicated above, Kamwala Remand Prison was meant for 200 inmates. The Commission, however, found a serious case of congestion. Cells meant for 10 inmates housed 90 or more. At night, inmates had no space for lying down. The congestion, according to the medical staff at the prison clinic, facilitates the spread of contagious diseases such as tuberculosis (TB) and scabies.

The prison was found to have inadequate food, a situation obviously aggravated by the huge number of inmates. Other than quantity, the quality of the food was not satisfactory. Table 2 summaries the general state of Kamwala Remand.

**Table 2: General State of Kamwala Remand Prison**

<b>Date of construction of the prison</b>	1958
<b>Holding capacity</b>	200
<b>General state of the cells</b>	Congested. Cells meant for 70 inmates housed about 300 inmates and more.
<b>Cleanliness</b>	Fair
<b>State of the toilets</b>	Toilets had water and flushing units. Minimum privacy for inmates
<b>State of the sewer system</b>	Recently overhauled. The problem of blockages, however, continued due to overwhelming pressure on the system.
<b>State of water supply</b>	Adequate; the prison had a new borehole.
<b>State of the kitchen (use of firewood or electricity)</b>	Used firewood. Two electrical pots received had not yet been installed.
<b>Food (quantity and quality)</b>	Inadequate both in quality and quantity. Inmates had two meals per day. Breakfast was rice and a combined lunch and supper of nshima and beans.
<b>Bedding (blankets and mattresses)</b>	Inadequate.
<b>Transport and Communications</b>	Inadequate transport (one vehicle). Radio and telephone communication were adequate.
<b>Medical services (clinic, medical personnel, essential drugs)</b>	The clinic was run by two nurses. The medical kit received from district hospital was inadequate.
<b>Major illnesses</b>	Tuberculosis (T.B.) and scabies. Easily transmitted in congested environments. There was no cell or dormitory for isolation
<b>Library facility</b>	Have a library but the books were outdated.
<b>Rehabilitation and recreation facilities (school, workshop, etc)</b>	The only recreation was playing football within the prison grounds.

**(b) Lusaka Central Prison (Chimbokaila)**

Lusaka Central (or *Chimbokaila*) Prison is one of the oldest prisons in the country, having been built in 1924. It has a capacity of 200 inmates. When the Commission visited the prison on 7 June 2004, there were 1,435 inmates, meaning the prison population exceeded recommended capacity about six times over.

**Table 3: Information relating to inmates as at 7 June 2004**

TYPE OF INMATES	MALE	FEMALE	TOTAL
Remand	772	53	825
Convicts	465	24	489
Aged	-	-	-
Terminally ill	152	00	152
Juveniles	25	00	25
Children under 12 years of age	00	13	13
Mothers with children	-	13	13
Prohibited immigrants	61	09	70
Delayed cases	Appendix A	Appendix A	Appendix A

**General State of Lusaka Central Prison**

As indicated above, Lusaka Central Prison was seriously congested at the time of the visit by the Commission, with cells meant for 70 housing 300 inmates. Although the standards of general cleanliness had improved compared to previous visits, the toilets were still filthy, with no water supply. Food was inadequate, both in terms of quality and quantity. The predominant illness was TB. Table 4 illustrates further.

**Table 4: General State of Lusaka Central Prison**

<b>Date of construction of the prison</b>	1924
<b>Holding capacity</b>	200
<b>General state of the cells</b>	Congested. Cells meant to carter for 10 inmates house 96 inmates
<b>Cleanliness</b>	Improved compared to last visit.
<b>State of the toilets</b>	Filthy and no flushing units, inmates have to pour water after helping themselves. Minimum privacy.
<b>State of the sewer system</b>	Most of the times the sewer system is blocked due to heavy pressure on the system resulting from congestion.
<b>State of water supply</b>	Water is adequate, the prison has two boreholes recently installed.
<b>State of the kitchen (use of firewood or electricity)</b>	The kitchen uses both firewood and electricity. The firewood is for emergency purposes in case there is no electricity. The prison has 3 new electrical pots.
<b>Food (quantity and quality)</b>	Food is inadequate both in quality and quantity. Inmates only have 2 meals a day. Breakfast is predominantly rice with salt and a combined lunch and supper of nshima and beans.
<b>Plates, cups and spoons</b>	Plates, cups and spoons are inadequate. The inmates have a few plastic cups and plates donated by the Roman Catholic Church.
<b>Uniforms</b>	90% of the inmate population use their own clothes.
<b>Bedding (blankets and mattresses)</b>	Inadequate, most of what is available is in tatters.
<b>Transport and Communications</b>	The prison only has two vehicles. Only one is reliable. The communication facilities are sufficient.
<b>Medical services (clinic, medical personnel, essential drugs)</b>	The clinic is manned by one nurse. The clinic receives drug supplies from the medical stores. The drugs are inadequate.
<b>Major illnesses</b>	The predominant illness is tuberculosis (TB)
<b>Isolation of patients with contagious diseases</b>	The prison has an isolation cell for those suffering from T.B.
<b>Library facility</b>	The prison has a library, the library is well stocked but with outdated books which cannot be used by those in literacy classes.
<b>Rehabilitation facilities (school, workshop, etc)</b>	The prison has literacy classes with some inmates in examination classes. The workshop for the prison is good. It produces very nice sofas. It also has an upholstery section.

**(c) Mwembeshi Open Air Prison**

Built in 1974, Mwembeshi Open Air Prison has a capacity of 350. The Commission found an actual population of 292 inmates. However, despite the actual population being lower than the recommended capacity, a physical check in the dormitories revealed a terrible state of congestion because not all the dormitories were being used by inmates as and had been put to other uses.

The Commission found that Mwembeshi Open Air Prison was engaged in mechanised agricultural production and had adequate land available for expansion of both facilities for inmates and farming activities.



**Mechanised farming at Mwembeshi**



**Produce from the Mwembeshi Prison Farm**

### **General State of Mwembeshi Open Air Prison**

The prison was found to be fairly clean. Although the toilets that were in use were pit latrines, some construction on the sewer system was being undertaken. The food supply was found to be generally satisfactory. In terms of health, the major illnesses at Mwembeshi were TB and Sexually Transmitted Infections (STIs). Table 5 illustrates.

**Table 5: General State of Mwembeshi Open Air Prison**

<b>Holding capacity</b>	350
<b>Date of construction of the prison</b>	1974
<b>General state of the cells</b>	During the tour, the total lock up for the day was 292 inmates. However, a physical check in the dormitories revealed a terrible state of congestion with some inmates sleeping on the floor.
<b>Cleanliness</b>	Fairly clean
<b>State of the toilets</b>	Need a lot of attention. Pit latrines were outside several meters from the dormitories.
<b>State of the sewer system</b>	Under construction
<b>State of water supply</b>	Adequate
<b>State of the kitchen (use of firewood or electricity)</b>	No kitchen; used makeshift structure.
<b>Food (quantity and quality)</b>	Satisfactory. Inmates had three meals in a day
<b>Plates, pots, cups and</b>	Not adequate. Used improvised pots.

<b>spoons</b>	
<b>Uniforms</b>	Inmates had one pair of uniform each.
<b>Bedding (blankets and mattresses)</b>	Not adequate. For instance, in Dorm 2, 24 beds catered for 108 inmates.
<b>Transport and Communications</b>	Inadequate transport (one light truck). Radio communication was satisfactory.
<b>Medical services (clinic, medical personnel, essential drugs)</b>	Had a clinic nearby but most of the time essential drugs were out of stock. Major illnesses were TB and STIs. The prison had no isolation section for inmates with contagious diseases.
<b>Library facility</b>	None.
<b>Rehabilitation and recreation facilities (school, workshop, etc)</b>	Farming, football and Volleyball pitch.

### **Mwembeshi Prison Project**

The Commission visited an abandoned project which, it was advised, was intended to be a maximum security prison. The facility composed various incomplete structures purposely built for confinement of inmates. The Commission observed that these structures, in many ways, complied with the requirements of the SMR, particularly with reference to the need for privacy in the toilets. The Commission learnt that the Government abandoned the Mwembeshi prison construction project in 1978. This project was meant to consist of a double storey complex meant to house over 1,500 inmates.



**Front view of the abandoned prison complex at Mwembeshi**



**Rear view of the complex**

## **2. STATE OF POLICE STATIONS AND POLICE POSTS**

The Commission found that the police stations in Lusaka Province clearly indicated that the police still had problems both in handling suspects and managing the detention facilities. The Commission also found that detention facilities were generally overcrowded.

### **(a) Condition of Cells**

Most of the police cells were very dirty. The cells had no water and in some cases sanitary facilities were non-existent. They also generally had poor lighting and ventilation. This problem, coupled with heavy congestion in the cells, resulted in inmates contracting various communicable diseases. The cells at Ngwerere, Westwood and Mutendere Police Stations were the worst and urgent action to redress the situation is needed.

At Westwood Police Station, there was no toilet in the cell. A heap of sand was placed where there had been a toilet and this acted as a makeshift toilet. At the time the Commission visited, there were human excreta on the sand and other waste such as toilet paper and old newspapers. The inmates took their meals in this same cell.

At Ngwerere, the cell also had no toilet. Instead, the inmates used a bucket to relieve themselves. The bucket was only taken out when full. When the Commission visited Ngwerere, the bucket was half full and the inmates were found eating meals in this same environment. A similar situation obtained at Mutendere Police Post where there was a pit latrine within the cell. The conditions at this station were inhuman. A similar situation existed at Zambia Compound Police Post in Kafue.

## (b) Torture

The Commission found that cases of torture were still prevalent in police stations. It is, therefore, of great concern to the Commission that, in their investigations, police officers continue to rely on torture as an interrogation technique. At Matero Police Station, for instance, one suspect was tortured and brutally battered by police using a wooden plank with nails.

Table 6 below is a list of some cases of torture that the Commission came across during the visits, including the names of police officers alleged to have tortured suspects.

**Table 6: List of some cases of torture in police cells**

NAME OF VICTIM	DATE OF DETENTION	CHARGE	POLICE STATION/POST	ALLEGED TORTURER
<ul style="list-style-type: none"> <li>▪ Matsauso Phiri</li> <li>▪ Davies Mulenga</li> <li>▪ Osiya Kaonga</li> <li>▪ Sekelo Mwakatobe</li> </ul>	10/6/2004	Aggravated robbery	Chaisa Police Post	Constable Kaoma No. 33103
Limbikani Soko	22/5/2004	Aggravated robbery	Kabanana Police Post	Criminal Investigations Officer
Peter Chishana	18/6/2004	Robbery	City Market Police Post	Officer Mtonga
<ul style="list-style-type: none"> <li>▪ Autiver Zambwe</li> <li>▪ Luka Zulu</li> <li>▪ Aaron Tembo</li> <li>▪ Esaya Mwanza</li> </ul>	3/6/2004	Aggravated robbery	Matero Police Station	D/Inspector Chipepo
<ul style="list-style-type: none"> <li>▪ Isaac Phiri</li> <li>▪ Christopher Mwango</li> </ul>	13/6/2004	Unlawful wounding	Kanyama Police Post	Constables Nyirongo and Musanje
Tedson Nkowane	1/6/2004	Theft	Kabulonga Police Post	D/Sub/Inspector Sichula
<ul style="list-style-type: none"> <li>▪ Kiva Msimuko</li> <li>▪ Simon Chilala</li> <li>▪ Mabvuto Phiri</li> </ul>	27/9/2004	Theft	Westwood Police Station	D/Constables Nguni and Chinene
Obert Simumba	17/9/2004	Murder	Westwood Police Station	Detective Constable Shula

Photographs 1-4 below show wounds sustained as a result of ill-treatment of the suspects by Westwood Police. It was alleged that while acting together, the suspects stole an undisclosed number of aluminium pipes. They were apprehended in Kanyama compound. While being transported, they sustained burns from the hot base in the back of the vehicle that was used.



**Photo 1: Suspect at Westwood Police Station shows torture burns**



**Photo 2: Suspect displays torture marks at Westwood Police Station**



**Photo 3: Another tortured suspect at Westwood Police Station**



**Photo 4: Torture marks on a suspect at Westwood Police Station**



**Photo 5: Marks of torture on a suspect at Westwood Police Station**

The person in picture above was facing a charge of murder. He alleged that the officers tortured him through whipping in an effort to make him reveal where he had allegedly hidden the deceased's property after allegedly killing him.

All Police Officers cited in the report were called on 18 May, 2005 to give their statements, which they submitted between 23 and 27 May, 2005. The officers were summoned from Chaisa, Kabanana, Kabulonga, Kanyama, Lusaka City Market, Matero and Westwood Police Stations and Posts. They gave written statements in their own handwriting and in some cases supported by their superior officers, generally, either completely or constructively denying the allegations of torture of the suspects who were in their custody.

The following is a sample of the defences used by the Police Officers to deny the allegations of torture levelled against them by the suspects:

- ◆ Suspects were beaten by members of the public before Police apprehended and detained them in custody.
- ◆ Suspects were brought already injured by other officers from an outpost to the station.
- ◆ Suspects were made to lie down flat in the motor vehicle transporting them from point of arrest to station for custody to prevent them from escaping since they were many and officers were few. The heated floor body of the motor vehicle burned them.
- ◆ Officers did not know what happened to the suspects after booked and leaving them in the cells.

- ◆ Suspects were injured by fellow inmates in cells while fighting for food. Newcomers and those who are not visited and brought food by relatives usually are the victims.
- ◆ Suspect was/were never tortured but handled professionally.
- ◆ Some officers said they were not Criminal Investigations Officers and only opened dockets at the front desk and referred suspects to CID for investigations.
- ◆ The suspects were attacked by a group of people and the Police had to rescue them from being assaulted. Whatever injuries the suspects had were caused by mob justice and not the Police.
- ◆ One officer denied knowledge of the allegation of torture levelled against him as at the time he is alleged to have committed the offence he was at another station and fellow officers could vouch for him as they had clarified in their written statements.
- ◆ The suspects were very violent and roughed up other suspects while together in the cells for having revealed their identities and participation in the crimes.

From the above defences it is clear that all the Police Officers attempted to exonerate themselves from torturing suspects by putting blame on members of the public or the suspects themselves. Officers evaded the allegation of torture by stating irrelevant matters not related to the question asked. From its findings, the Commission has reason to believe that the suspects' allegations of torture were well founded.

Appendix A summarises the general condition of police stations and posts in Lusaka Province.

### **3. WELFARE OF POLICE OFFICERS AND WORKING CONDITIONS**

When it embarked on the tour of detention facilities in Lusaka Province, the Commission was also concerned with the living and working conditions of police officers. In this regard, the Commission also took time to inspect and assess various aspects relating to the conditions under which officers serve.

#### **(a) Housing**

The Commission noted that there was a critical shortage of housing for police officers. In some police camps visited two families shared one house. Many officers were forced to make their own arrangements for accommodation.

The Commission also noted that many houses for officers were in a dilapidated condition due to lack of maintenance. In some cases officers' houses were almost collapsing and were not suitable for human habitation. Some officers live in makeshift houses, such as at Chilenje market, while others live in metal structures, such as at Rufunsa. These structures become very cold in the cold season and extremely hot during the hot season.

The following photographs show some of the "housing accommodation" the Commission found officers occupying.



**An incomplete market structure turned into officers quarters at Chilenje**



**Another view of the market structure serving as officers' accommodation**



**An improvised kitchen at Shakes quarters at Chilenje**



**A Police Inspector's house in Kafue Old Camp**



**Front view of the same house**



**Blocks for one of the officer's in readiness to build a house at his own expense.**



**A general view of several houses in the camp (Kafue)**



**A general view of several houses in a police camp (Kafue)**

### **(b) Water and Sewer System**

Most of the police camps had no water. Police officers were forced to source water from as far as 400 meters away. At Luangwa Police Post, officers drink untreated water straight from the river. In most of the police camps, the sewer systems were either blocked or the pipes had totally broken down. This situation had made officers to rely on pit latrines.



**A communal toilet used by three families at Kafue Police camp.**

**(c) Office Accommodation**

The Commission found that metal containers were used as offices at some police posts. The containers get extremely cold and hot in the cold and hot seasons respectively. This obviously aggravates the poor conditions under which officers serve.

**V. CONCLUSION**

This report has highlighted the terrible situation under which inmates are kept and also the difficult living and working conditions of the police and prison officers. It is clear that detention and prison facilities in Lusaka Province still lag far behind the recommended international standards. Most of the facilities were not in a suitable condition necessary for the respect of human rights and human dignity. Congestion and filth characterised most of the facilities. With regard to congestion, the Commission noted that this was aggravated by inmates held on minor offences most of which were in fact bailable. This problem was particularly prevalent in the high density whereas. In addition, a good number of detention facilities were not purpose built and lack sanitary facilities. This is particularly the case with donated structures.

Conditions cited above are an infringement of the officers' right to an adequate standard of living. The prevailing situation also dampens their morale to perform their duties. The Commission feels that something needs to be done urgently to alleviate the suffering of police officers. Urgent attention should be paid to the general conditions of police officers in the country if they were expected to work professionally and to uphold human rights.

The deplorable conditions under which officers serve do have a negative impact on the maintenance of law and order and also respect and observance of human rights.

Frustrated and demoralised officers are more likely to be corrupt and abusive towards suspects.

## **VI. RECOMMENDATIONS**

In view of the findings outlined in this Report, the Commission would like to recommend as follows:

### **Congestion**

1. The Government should declare an amnesty for inmates/suspects who have stayed for a long time without trial, particularly in cases where the alleged offences carry a maximum sentence of imprisonment of a period equal to that already spent by inmates on remand. The Commission further recommends that, if necessary, legislation should be changed to provide for the amnesty. This measure would be in furtherance of the right to a speedy trial and the presumption of innocence.
2. Aged and terminally ill inmates should be released.
3. Where circumstances allow, the courts should increase the use of non-custodial sentences for minor offences (community service).
4. The Commissioner of Prisons should be encouraged to effect prison transfers to lessen congested facilities.
5. Certain Zambia National Service camps that are dormant should be considered to be turned into prisons to facilitate decongestion.
6. For serious cases, a Liaison Committee should be established to review pending cases periodically. The committee could also devise an effective case monitoring mechanism. The committee should consist of the following institutions:
  - Judiciary
  - Human Rights Commission
  - Zambia Police Service
  - Zambia Prisons Service
  - Director of Public Prosecutions
7. There is need to improve the rate at which cases were brought before the courts of law. It is the basic right of every human being charged with an offence to be brought promptly before the courts so that his or her case can be quickly determined. This right is enshrined in the Constitution of the Republic of Zambia and also in the international human rights instruments that the country has signed up to. The Judiciary should introduce circuit courts to ensure that cases are heard at the nearest venue possible to help speed up trials.
8. The police should be directed to be more judicious in providing bond for minor offences either in suspects' own cognisance or after satisfying themselves on sureties. In this regard:

- (i) the law relating to bond should be reviewed with a view to relaxing the applicable rules, including allowing women to be sureties;
  - (ii) detention of sureties should be discouraged; and
  - (iii) bond should be granted on a non-discriminatory basis.
9. The Ministry of Foreign Affairs should liaise with embassies accredited to Zambia to encourage their staff to visit prohibited immigrants and facilitate their deportation to their countries of origin.
10. The Government should in the long run expand prison facilities, including completion of unfinished structures at Mwembeshi Prison. Open air prisons should be used on a bigger scale. In this regard, the model of Mwembeshi Prison could be used elsewhere as a way of decongesting the prisons.

## **Health**

11. The Government should provide resources to overhaul the health delivery system in the prisons and to comply with the standards provided in the Prison Rules.
12. Inmates with communicable diseases such as tuberculosis and scabies should be isolated.
13. The Government should source motor vehicles to be converted into ambulances to transport sick inmates. Such vehicles could possibly be sourced from the Zambia Revenue Authority (ZRA), Anti-Corruption Commission (ACC), Drug Enforcement Commission (DEC) or the Task Force on Corruption, from among vehicles forfeited to the State for various reasons.
14. Pregnant women and nursing mothers should be isolated and given special care and attention. They must be given access to antenatal and under-five clinics on a monthly basis or as and when it becomes necessary.
15. Women with children in prison need separate special facilities to cater for children's special and unique needs and to protect them from contracting diseases and infections. For proper development a child needs an enabling environment which is friendly and clean, including special diet and clean water.
16. All cells at Police stations and police posts must contain water and sanitary facilities before they can be used for detaining suspects for longer than six hours.
17. Boreholes should be drilled at police stations to alleviate the problem of blocked sewer systems.
18. The authorities should ensure an adequate supply of medicines and cleaning agents to the prisons.

19. Toilet facilities should be kept clean and cleaning materials and detergents provided. The Commission suggests that inmates can be supervised to clean their cells.
20. Ventilation in the cells and dormitories should be improved.
21. The Social Welfare Department should look into the problem of babies in the prisons and recommend practical solutions to the Government.
22. Mentally ill inmates should be transferred to suitable mental institutions for medical attention and rehabilitation.

### **Food and Nutrition**

23. The Government is urged to recognise its obligation to observe the law as set out in the Prisons Act to provide good meals for inmates. In this regard, the authorities should comply with rules on rations as provide in the Prisons Act Regulations.
24. It is strongly recommended that production units should be used more and more to supplement the food requirements of the inmates. The Prison Service should be given more leverage in using the resources from the production units.
25. The Government should provide special diet in cases where this is recommended by medical personnel.
26. Relatives should be informed of the whereabouts of their relations who are detained at police stations and police posts so that they can provide food for them. The authorities should also be mindful of the prohibition to keep a suspect incommunicado.

### **Treatment of Inmates**

27. Officers involved in torturing suspects/inmates should be retired in the public interest by the Police and Prisons Service Commission.
28. The Penal Code must be amended to include torture as a criminal offence. In this regard, the Government is referred to the recommendations of the United Nations Committee against Torture in its Concluding Observations and Comments adopted on 25 September 2002 following the consideration of Zambia's Initial Report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) of 1984 which Zambia acceded to in 1998. The Committee recommended, *inter alia*, that Zambia should:
  - a) Incorporate of the Convention into its legal system;
  - b) Adopt a definition of torture which is fully in keeping with Article 1 of the Convention and provides for appropriate penalties;
  - c) Take appropriate measures to ensure jurisdiction over crimes of torture, wherever they may occur;

- d) Undertake legal and other measures to address impunity and ensure that acts of torture are prosecuted to the full extent of the law and that complaints have access to legal advice as necessary;
  - e) Undertake legal and other measures to ensure the systematic review of interrogation rules, instructions, methods and practices;
  - f) Strengthen training and educational programmes for law enforcement personnel on the prohibition of torture;
  - g) Establish rehabilitation centres for victims of torture;
29. Officers who batter, assault or torture suspects and inmates must be suspended pending investigations and if a case is established against them, they must be dismissed and prosecuted.
30. Officers-in-Charge should take keen interest in the welfare of inmates under their charge, including attending to complaints of inmates assaulting fellow inmates. Mechanisms should be put in place to facilitate reporting of assault of inmates by fellow inmates. Officers-in-Charge should account for incidents among inmates under their charge.
31. Separate facilities should be provided for juvenile inmates. A deliberate effort should also be made to ensure that juveniles are provided with counselling services by the Social Welfare Department, especially in cases of defilement.
32. The Prison Service should be afforded facilities to comply with provisions of the Prisons Act as set out in Section 60.

### **Recreation and Rehabilitation**

33. More programmes of recreation and rehabilitation should be devised by Lusaka Central Prison in conjunction with the Ministry of Home Affairs.
34. The Government should mobilise and provide modern literature for libraries in prisons.
35. Recreational facilities should be provided for infants living in prison with their mothers.
36. Juveniles should be speedily relocated to reformatory schools.

### **Welfare of Officers**

37. The State must seriously look into the welfare of police officers, especially their working conditions and provide decent offices and living accommodation. Conditions of service have a bearing on the officers' work and how they treat inmates. In this regard, the Government should provide:
- Adequate transport for operations
  - Equipment necessary to ensure effective and efficient law enforcement
  - Communication facilities

38. The Government should also urgently address the poor housing situation for officers with a view to providing decent accommodation.
39. Funds must be put aside every year for on going sensitisation and education of police and prison officers.

## **APPENDICES**

### **APPENDIX A: Condition of Police Stations/Police Posts**

	<b>NAME OF POLICE STATION/POST</b>	<b>STATE OF CELLS</b>	<b>STATE OF TOILETS</b>	<b>WATER SUPPLY AND SEWER SYSTEM</b>
1	Lusaka Central Police Station	The general state of the police cells was very impressive and the cells were not congested.	The toilets were fairly clean at the time of the visit.	Had adequate water flow. The sewer system was okay.
2	City Market Police Post	There were only two cells; a female and male cell. The cells were dirty. At night inmates used buckets to answer the call of nature.	No toilet.	
3	Intercity Police Post	Only one police cell. The cell was dirty and filthy at the time of the Commission's visit.	The toilet was dirty.	No water.
4	Millennium Police Post	The cells were clean.	No toilet.	
5	Comesa Police Post.	There was one cell for male inmates. Poorly ventilated and no lighting.	There was no toilet in the cell. At night the inmates used buckets to answer the call of nature.	The police post had no water. They use a communal tap with the marketeers.

6	Zambia Paint Police Post	At the time of the visit the cells were empty and clean.	The toilet was clean.	Water supply and sewer system was okay.
7	Kabwata Police Station.	The station had three cells; male, female and juvenile cell. The juvenile cell had 2 mattresses and blankets. The cells were dirty.	The toilets were dirty.	There was no water and the sewer system was blocked.
8	Kamwala Police Post	There was only one male cell, a container.	There was no toilet at this police post.	No water.
9	Woodlands Police Station	The cell was found clean at the time of the visit. To protect the inmates from sleeping directly on the floor, the officers put a carpet in the cell.	Though clean, the toilet had no water.	There was no water but the sewer system sewer system was okay.
10	Chilenje Police Station	The cells were found in a clean state. The only problem was that the cell had no lighting and was poorly ventilated.	Toilet very clean with a flushing unit. The only problem was that it had to be flushed from outside.	There was adequate water and the sewer system was okay.
11	Nyumba Yanga Police Post.	The police cell had no ventilation and at the time of the visit the cell had no power.	The toilet was found in a filthy state.	Erratic water supply.
12	Chawama Police Station	At the time of the visit the cell was filthy and heavily congested. The cell had no lighting and was poorly ventilated.	The pit latrine was very dirty.	The water situation was pathetic. The station had no water most of the time.
13	Emmasdale	The police cells were fairly	Had pit toilets in cells,	Water supply and sewer

	Police Station	clean and at the time of the visit were not congested.	which were fairly clean.	system was alright.
14	Garden Police Post	The Police cells were very clean.	The toilet was not very clean due to none availability of running water.	Inadequate water supply.
15	Northmead Police Post	The cell was fairly clean.	The toilet was not very clean due to none availability of running water in the cell.	The sewer system was okay but the problem was inadequate water supply,
16	Manda Hill Police Post	Very clean.	Clean with water borne and flushing toilet.	Plenty of water and good sewer system.
17	Chaisa Police Post	There were two police cells in a deplorable state. On the day of the visit the cells were congested.	Dirty pit latrine.	No water.
18	Chipata Police Post.	The cells were filthy and on the day of the visit the cell was terribly congested with 23 inmates for a capacity of only 10 inmates.	Very dirty	No water.
19	Kabanana Police Post	The cell was not overcrowded at the time of the visit. The cell was generally dirty.	Very dirty	The post had problems with water supply but the sewer system was okay.
20	Longacres Police Post	The police cell was clean. This is a newly opened police post and has a lot of community support.	The toilet was equally clean.	The sewer system and water situation was okay.
21	Kalingalinga Police Post	The cells were dirty.	No toilet.	No water
22	Mtendere Police Post	This had one of the dirtiest cells visited. There was no lighting and no ventilation.	Very dirty.	
23	Chelstone Police Station	Only one cell for males. The cell was dirty.	No toilet.	
24	Airport Police Station	The cells were very clean and at the time of the visit there was no inmate	The toilet was clean.	Adequate water supply and good sewer system.
25	Ng'ombe Police Post	The cell was very spacious.	The toilet was very dirty.	There was no water at the police post and the sewer system was bad.
26	Munali Police Post	The condition of the cell was deplorable.	Very dirty toilet.	No water.
27	Kamanga Police Post.	The cell was spacious and generally clean. At the time of the visit the cell was empty.	There was no toilet in the cell. Inmates were taken to a nearby pit latrine.	The post had no water. The officers had to draw water from a communal tap some meters away.
28	Mwembeshi Police Post.	The cell was a transit cell. It was clean and at the time of the visit there were only two inmates.	The cell had no toilet; the inmates use a container to answer the call of nature.	No water supply.
29	Matero Police Station.	There were three big cells. The juvenile cell was very	The toilets for the male inmates were not clean	Erratic water supply.

		impressive; it had blankets and a bathroom. The station even had a juvenile officer who takes care of juveniles.	but other toilets were okay.	
30	Matero East Police Post.	There were two cells, one for males and one for females. The cells were not very bad.	No toilet in the cells.	No water.
31	Barlastone Police Post	The post only had one male cell. It was a transit cell and at the time there was only one inmate.	There was no toilet.	No water.
32	Chunga Police Post.	At the time of the visit the cell was very clean.	Toilet though not in the cell, was well maintained.	The post had good water supply and the sewer system was okay.
33	Kabangwe Police Post	The post had one big cell with two compartments; male and female. Though fairly clean on the day of the visit, the cell was completely dark with poor ventilation.	The toilets were fairly clean.	Water from a borehole.
34	Westwood Police Station.	One of the dirtiest police cells. In the corner of the cell there was a heap of sand where inmates helped themselves.	There was no toilet.	Had water supply but blocked sewer system.
35	George Police Post	The police cell though clean on the day of the visit, had poor ventilation.	There was no toilet in the police cell; inmates were escorted to the nearby pit latrine.	Water was available and the sewer system was okay.
36	Muchinga Police Post	At the time of the visit the cell was empty and clean.	Toilet was fine.	Not connected to any water supply line.
37	Buyantanshi Police Post	Cells were clean, the police post was new.	Very clean.	Adequate
38	Salima Police Post	The station only had one transit cell, which was fairly clean on the day of the visit. The only problem was poor ventilation.	Toilet outside cell but well maintained.	Water was rationed but the sewer system was fine.
39	Kanyama Police Station	The cell was dirty and there was no electricity	No toilet in the cell.	No water supply.
40	Kanyama West Police Post.	There were two cells; male and female. At the time of the visit the cells were empty. The cell was clean.	The toilet was clean.	No water
41	Mosque Road Police Post.	The general state of the cell was fairly good despite poor ventilation.	The toilet was dirty at the time of the visit.	No water.
42	Chinika Police Post.	Very dirty cell at the time of the visit.	Blocked toilet.	No water.
43	Los Angels Police Post	Both cells, male and female were clean at the time of the visit. The police post was still	The post had a waterborne toilet with operational flushing	Water was adequate and the sewer system was fine.

		new.	unit.	
44	Makeni Police Station.	The cell was dirty with litter all over.	The toilet was in a deplorable state.	The station had problems with water supply; the borehole pump was broken down. The sewer system was blocked.
45	Shibuyunji Police Post	The cell had no toilet inside. It was generally dirty. Apart from this state of affairs, it was not fit to keep inmates because the roof was almost ripped off.	No toilet.	No water supply.
46	Chilanga Police Station	There were two cells; male and female with shower provisions inside the cells. At the time of the visit the Commission found the cells were under renovation.	Under renovation	The station had water problems because their tank was old and broken to it cannot hold water. The sewer system was earmarked for overhaul.
47	Musamba Police Post	The cell was extremely clean.	The toilet was very clean.	No water supply.
48	Mount Makulu Police Post.	This was a transit cell but it was clean.	No toilet.	
49	Kafue Police Station.	The cells were under renovation.	Under renovation.	No water supply.
50	Shimabala Police Post.	The cell was clean though small.	No toilet for inmates.	
51	Linda Police Post.	There were two cells; male and female. The cells were very clean at the time of the visit.	Very clean with flushing toilet.	Water was readily available and the sewer system was excellent.
52	Kafue Estates Police Post.	The cell was clean.	The toilet was clean but not water borne.	Water was readily available.
53	Helpers Police Post.	It was a transit cell (a container); at the time of the visit the cell was clean.	The toilet was outside the cell and was well maintained.	Water was readily available and the sewer system was fine.
54	Palabana Police Post.	The cell was not in use at the time of the visit owing to a damaged roof.	There was no toilet.	
55	Chalimbana Police Station.	The police cell was clean. The cell was big with good ventilation. At the time of the visit the Commission found blankets for inmates in the cell.	There was a toilet in the cell but it was blocked. The inmates used a bucket.	Adequate water supply.
56	Chinuynyu Police Post	Cell was big and clean but needs improved ventilation.	There was no toilet in the cell.	No water supply.
57	Luangwa Police Station	The station had 3 big cells with washing basins. There was water in the cells and the cells were clean. There was even a kitchen where officers prepared meals for inmates.	The toilets were very clean though they had no flushing units. Inmates had to pour water after use.	Water was readily available and the system was okay, courtesy of good management by the officer in charge.
58	Rufunsa Police Post.	The cell was the initiative of the officers and the surrounding community. It	The toilet was fairly clean.	No water supply.

		was still new but the ventilation had not been done well.		
59	Chitope Police Post.	The cell was a transit one. At the time of the visit the facility was under renovation	Under renovation.	No water supply.
60	Town Centre Police Post (Lusaka)	The cell was dirty and poorly lit.	No toilet.	No water supply.
61	Misisi Police Post.	There was only one cell, which was in a deplorable state. The whole station was not connected to electricity.	Inmates use a bucket.	There was a water tap behind the police post.
62	Kamwala South Police Post.	The post was still under construction; the female cell had a waterborne toilet and shower.	The toilet was clean.	Adequate water supply but not yet connected to sewer system.
63	Kabulonga Police Post.	The Post only had one male cell. The cell was clean.	The toilet was clean.	The water and sewer system was fine.
64	Chazanga Police Post.	The cell was clean and spacious.	The toilet was clean.	Water supply was erratic.
65	Castle Police Post	The cell was clean and well ventilated.	There was no toilet for the inmates.	No water supply.
66	Villa Lucia Police Post.	The post was still under construction.	Under construction.	Under construction.
67	Lutheran Police Post.	The post was still under construction	Under construction	Under construction
68.	Industrial Police Post.	The cell was clean. At the time of the visit the Commission found two blankets for inmates in the cell.	The toilet was clean.	Adequate water and excellent system.

**HUMAN RIGHTS IN THE ADMINISTRATION OF JUSTICE:  
PROTECTION OF PERSONS SUBJECTED TO DETENTION OR  
IMPRISONMENT**

***STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS***

**Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977**

***PRELIMINARY OBSERVATIONS***

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

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

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

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

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

5. (1) The rules do not seek to regulate the management of institutions set aside for young persons such as Borstal institutions or correctional schools, but in general part I would be equally applicable in such institutions.

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

***Part I***

***RULES OF GENERAL APPLICATION***

***Basic principle***

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

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

### ***Register***

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

( a ) Information concerning his identity;

( b ) The reasons for his commitment and the authority therefor;

( c ) The day and hour of his admission and release.

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

### ***Separation of categories***

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

( a ) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate;

( b ) Untried prisoners shall be kept separate from convicted prisoners;

( c ) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence;

( d ) Young prisoners shall be kept separate from adults.

### ***Accommodation***

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

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

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

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

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

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

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

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

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

### ***Personal hygiene***

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

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

### ***Clothing and bedding***

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

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

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

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

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

### ***Food***

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

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

### ***Exercise and sport***

21. (1) Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

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

### ***Medical services***

22. (1) 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 organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.

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

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

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

(2) Where nursing infants are allowed to remain in the 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 defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.

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

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

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

( a ) The quantity, quality, preparation and service of food;

( b ) The hygiene and cleanliness of the institution and the prisoners;

( c ) The sanitation, heating, lighting and ventilation of the institution;

( d ) The suitability and cleanliness of the prisoners' clothing and bedding;

( e ) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.

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

not concur with them, he shall immediately submit his own report and the advice of the medical officer to higher authority.

### ***Discipline and punishment***

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

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

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

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

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

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

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

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

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

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

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

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

### ***Instruments of restraint***

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

- ( a ) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;
- ( b ) On medical grounds by direction of the medical officer;
- ( c ) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.

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

#### ***Information to and complaints by prisoners***

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

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

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

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

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

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

#### ***Contact with the outside world***

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

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

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

39. Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the administration.

#### ***Books***

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

### ***Religion***

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

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

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

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

### ***Retention of prisoners' property***

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

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

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

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

### ***Notification of death, illness, transfer, etc.***

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

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

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

### ***Removal of prisoners***

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

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

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

### ***Institutional personnel***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### ***Inspection***

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

## ***Part II***

### ***RULES APPLICABLE TO SPECIAL CATEGORIES***

#### ***A. PRISONERS UNDER SENTENCE***

##### ***Guiding principles***

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

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

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

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

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

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

61. The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it. Community agencies should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners. There should be in connection with every institution social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his family and with valuable social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.

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

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

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

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

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

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

### ***Treatment***

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

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

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

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

### ***Classification and individualization***

67. The purposes of classification shall be:

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

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

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

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

### ***Privileges***

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

### ***Work***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### ***Education and recreation***

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

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

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

#### ***Social relations and after-care***

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

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

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

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

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

#### ***B. Insane and mentally abnormal prisoners***

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

(2) Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management.

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

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

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

#### ***C. Prisoners under arrest or awaiting trial***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### ***D. Civil prisoners***

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

#### ***E. Persons arrested or detained without charge***

95. 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.

## ***BODY OF PRINCIPLES FOR THE PROTECTION OF ALL PERSONS UNDER ANY FORM OF DETENTION OR IMPRISONMENT***

**Adopted by General Assembly resolution 43/173 of 9 December 1988**

### **Scope of the Body of Principles**

These principles apply for the protection of all persons under any form of detention or imprisonment.

#### ***USE OF TERMS***

For the purposes of the Body of Principles:

( a ) "Arrest" means the act of apprehending a person for the alleged commission of an offence or by the action of an authority;

( b ) "Detained person" means any person deprived of personal liberty except as a result of conviction for an offence;

( c ) "Imprisoned person" means any person deprived of personal liberty as a result of conviction for an offence;

( d ) "Detention" means the condition of detained persons as defined above;

( e ) "Imprisonment" means the condition of imprisoned persons as defined above;

( f ) The words "a judicial or other authority" means a judicial or other authority under the law whose status and tenure should afford the strongest possible guarantees of competence, impartiality and independence.

### ***Principle 1***

All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.

### ***Principle 2***

Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose.

### ***Principle 3***

There shall be no restriction upon or derogation from any of the human rights of persons under any form of detention or imprisonment recognized or existing in any State pursuant to law, conventions, regulations or custom on the pretext that this Body of Principles does not recognize such rights or that it recognizes them to a lesser extent.

### ***Principle 4***

Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority.

### ***Principle 5***

1. These principles shall be applied to all persons within the territory of any given State, without distinction of any kind, such as race, colour, sex, language, religion or religious belief, political or other opinion, national, ethnic or social origin, property, birth or other status.

2. Measures applied under the law and designed solely to protect the rights and special status of women, especially pregnant women and nursing mothers, children and juveniles, aged, sick or handicapped persons shall not be deemed to be discriminatory. The need for, and the application of, such measures shall always be subject to review by a judicial or other authority.

### ***Principle 6***

No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. <sup>1</sup> No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

### ***Principle 7***

1. States should prohibit by law any act contrary to the rights and duties contained in these principles, make any such act subject to appropriate sanctions and conduct impartial investigations upon complaints.
2. Officials who have reason to believe that a violation of this Body of Principles has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial powers.
3. Any other person who has ground to believe that a violation of this Body of Principles has occurred or is about to occur shall have the right to report the matter to the superiors of the officials involved as well as to other appropriate authorities or organs vested with reviewing or remedial powers.

### ***Principle 8***

Persons in detention shall be subject to treatment appropriate to their unconvicted status. Accordingly, they shall, whenever possible, be kept separate from imprisoned persons.

### ***Principle 9***

The authorities which arrest a person, keep him under detention or investigate the case shall exercise only the powers granted to them under the law and the exercise of these powers shall be subject to recourse to a judicial or other authority.

### ***Principle 10***

Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.

### ***Principle 11***

1. A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.
2. A detained person and his counsel, if any, shall receive prompt and full communication of any order of detention, together with the reasons therefor.
3. A judicial or other authority shall be empowered to review as appropriate the continuance of detention.

### ***Principle 12***

1. There shall be duly recorded:
  - ( a ) The reasons for the arrest;
  - ( b ) The time of the arrest and the taking of the arrested person to a place of custody as well as that of his first appearance before a judicial or other authority;
  - ( c ) The identity of the law enforcement officials concerned;
  - ( d ) Precise information concerning the place of custody.
2. Such records shall be communicated to the detained person, or his counsel, if any, in the form prescribed by law.

### ***Principle 13***

Any person shall, at the moment of arrest and at the commencement of detention or imprisonment, or promptly thereafter, be provided by the authority responsible for his arrest, detention or imprisonment, respectively with information on and an explanation of his rights and how to avail himself of such rights.

### ***Principle 14***

A person who does not adequately understand or speak the language used by the authorities responsible for his arrest, detention or imprisonment is entitled to receive promptly in a language which he understands the information referred to in principle 10, principle 11, paragraph 2, principle 12, paragraph 1, and principle 13 and to have the assistance, free of charge, if necessary, of an interpreter in connection with legal proceedings subsequent to his arrest.

### ***Principle 15***

Notwithstanding the exceptions contained in principle 16, paragraph 4, and principle 18, paragraph 3, communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.

### ***Principle 16***

1. Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody.

2. If a detained or imprisoned person is a foreigner, he shall also be promptly informed of his right to communicate by appropriate means with a consular post or the diplomatic mission of the State of which he is a national or which is otherwise entitled to receive such communication in accordance with international law or with the representative of the competent international organization, if he is a refugee or is otherwise under the protection of an intergovernmental organization.

3. If a detained or imprisoned person is a juvenile or is incapable of understanding his entitlement, the competent authority shall on its own initiative undertake the notification referred to in the present principle. Special attention shall be given to notifying parents or guardians.

4. Any notification referred to in the present principle shall be made or permitted to be made without delay. The competent authority may however delay a notification for a reasonable period where exceptional needs of the investigation so require.

### ***Principle 17***

1. A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.

2. If a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.

### ***Principle 18***

1. A detained or imprisoned person shall be entitled to communicate and consult with his legal counsel.

2. A detained or imprisoned person shall be allowed adequate time and facilities for consultation with his legal counsel.

3. The right of a detained or imprisoned person to be visited by and to consult and communicate, without delay or censorship and in full confidentiality, with his legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order.

4. Interviews between a detained or imprisoned person and his legal counsel may be within sight, but not within the hearing, of a law enforcement official.

5. Communications between a detained or imprisoned person and his legal counsel mentioned in the present principle shall be inadmissible as evidence against the detained or imprisoned person unless they are connected with a continuing or contemplated crime.

#### ***Principle 19***

A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.

#### ***Principle 20***

If a detained or imprisoned person so requests, he shall if possible be kept in a place of detention or imprisonment reasonably near his usual place of residence.

#### ***Principle 21***

1. It shall be prohibited to take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess, to incriminate himself otherwise or to testify against any other person.

2. No detained person while being interrogated shall be subject to violence, threats or methods of interrogation which impair his capacity of decision or his judgement.

#### ***Principle 22***

No detained or imprisoned person shall, even with his consent, be subjected to any medical or scientific experimentation which may be detrimental to his health.

#### ***Principle 23***

1. The duration of any interrogation of a detained or imprisoned person and of the intervals between interrogations as well as the identity of the officials who conducted the interrogations and other persons present shall be recorded and certified in such form as may be prescribed by law.

2. A detained or imprisoned person, or his counsel when provided by law, shall have access to the information described in paragraph 1 of the present principle.

#### ***Principle 24***

A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge.

#### ***Principle 25***

A detained or imprisoned person or his counsel shall, subject only to reasonable conditions to ensure security and good order in the place of detention or imprisonment, have the right to request or petition a judicial or other authority for a second medical examination or opinion.

***Principle 26***

The fact that a detained or imprisoned person underwent a medical examination, the name of the physician and the results of such an examination shall be duly recorded. Access to such records shall be ensured. Modalities therefore shall be in accordance with relevant rules of domestic law.

***Principle 27***

Non-compliance with these principles in obtaining evidence shall be taken into account in determining the admissibility of such evidence against a detained or imprisoned person.

***Principle 28***

A detained or imprisoned person shall have the right to obtain within the limits of available resources, if from public sources, reasonable quantities of educational, cultural and informational material, subject to reasonable conditions to ensure security and good order in the place of detention or imprisonment.

***Principle 29***

1. In order to supervise the strict observance of relevant laws and regulations, places of detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment.

2. A detained or imprisoned person shall have the right to communicate freely and in full confidentiality with the persons who visit the places of detention or imprisonment in accordance with paragraph 1 of the present principle, subject to reasonable conditions to ensure security and good order in such places.

***Principle 30***

1. The types of conduct of the detained or imprisoned person that constitute disciplinary offences during detention or imprisonment, the description and duration of disciplinary punishment that may be inflicted and the authorities competent to impose such punishment shall be specified by law or lawful regulations and duly published.

2. A detained or imprisoned person shall have the right to be heard before disciplinary action is taken. He shall have the right to bring such action to higher authorities for review.

***Principle 31***

The appropriate authorities shall endeavour to ensure, according to domestic law, assistance when needed to dependent and, in particular, minor members of the families of detained or imprisoned persons and shall devote a particular measure of care to the appropriate custody of children left without supervision.

***Principle 32***

1. A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful.

2. The proceedings referred to in paragraph 1 of the present principle shall be simple and expeditious and at no cost for detained persons without adequate means. The detaining authority shall produce without unreasonable delay the detained person before the reviewing authority.

### ***Principle 33***

1. A detained or imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.

2. In those cases where neither the detained or imprisoned person nor his counsel has the possibility to exercise his rights under paragraph 1 of the present principle, a member of the family of the detained or imprisoned person or any other person who has knowledge of the case may exercise such rights.

3. Confidentiality concerning the request or complaint shall be maintained if so requested by the complainant.

4. Every request or complaint shall be promptly dealt with and replied to without undue delay. If the request or complaint is rejected or, in case of inordinate delay, the complainant shall be entitled to bring it before a judicial or other authority. Neither the detained or imprisoned person nor any complainant under paragraph 1 of the present principle shall suffer prejudice for making a request or complaint.

### ***Principle 34***

Whenever the death or disappearance of a detained or imprisoned person occurs during his detention or imprisonment, an inquiry into the cause of death or disappearance shall be held by a judicial or other authority, either on its own motion or at the instance of a member of the family of such a person or any person who has knowledge of the case. When circumstances so warrant, such an inquiry shall be held on the same procedural basis whenever the death or disappearance occurs shortly after the termination of the detention or imprisonment. The findings of such inquiry or a report thereon shall be made available upon request, unless doing so would jeopardize an ongoing criminal investigation.

### ***Principle 35***

1. Damage incurred because of acts or omissions by a public official contrary to the rights contained in these principles shall be compensated according to the applicable rules or liability provided by domestic law.

2. Information required to be recorded under these principles shall be available in accordance with procedures provided by domestic law for use in claiming compensation under the present principle.

### ***Principle 36***

1. A detained person suspected of or charged with a criminal offence shall be presumed innocent and shall be treated as such until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. The arrest or detention of such a person pending investigation and trial shall be carried out only for the purposes of the administration of justice on grounds and under conditions and procedures specified by law. The imposition of restrictions upon such a person which are not strictly required for the purpose of the detention or to prevent hindrance to the process of investigation or the administration of justice, or for the maintenance of security and good order in the place of detention shall be forbidden.

### ***Principle 37***

A person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his arrest. Such authority shall decide without delay upon the lawfulness and necessity of detention. No person may be kept under detention pending investigation or trial except upon the written order of such an authority. A detained person shall, when brought before such an authority, have the right to make a statement on the treatment received by him while in custody.

***Principle 38***

A person detained on a criminal charge shall be entitled to trial within a reasonable time or to release pending trial.

***Principle 39***

Except in special cases provided for by law, a person detained on a criminal charge shall be entitled, unless a judicial or other authority decides otherwise in the interest of the administration of justice, to release pending trial subject to the conditions that may be imposed in accordance with the law. Such authority shall keep the necessity of detention under review.

***General clause***

Nothing in this Body of Principles shall be construed as restricting or derogating from any right defined in the International Covenant on Civil and Political Rights.

## **BASIC PRINCIPLES FOR THE TREATMENT OF PRISONERS**

### **Adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990**

1. All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.
2. There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. It is, however, desirable to respect the religious beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions so require.

4. The responsibility of prisons for the custody of prisoners and for the protection of society against crime shall be discharged in keeping with a State's other social objectives and its fundamental responsibilities for promoting the well-being and development of all members of society.
5. Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants.
6. All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.
7. Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.
8. Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labour market and permit them to contribute to their own financial support and to that of their families.
9. Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.
10. With the participation and help of the community and social institutions, and with due regard to the interests of victims, favourable conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions.
11. The above Principles shall be applied impartially.