



## BRIEFING

### The process of Review of the UN Standard Minimum Rules for the Treatment of Prisoners

November 2015

In December 2010, the UN General Assembly adopted resolution 65/230, “Twelfth United Nations Congress on Crime Prevention and Criminal Justice” which, among other things, requested the Commission on Crime Prevention and Criminal Justice to establish,

“... an open-ended intergovernmental expert group... to exchange information on best practices, as well as national legislation and existing international law, and on the revision of existing United Nations standard minimum rules for the treatment of prisoners so that they reflect recent advances in correctional science and best practices, with a view to making recommendations to the Commission on possible next steps.”<sup>1</sup>

Within the process based on this resolution, Member States concluded that the Standard Minimum Rules for the Treatment of Prisoners (SMR) are still valid, however they also “recognized the need for some areas of the Standard Minimum Rules to be reviewed.”<sup>2</sup>

Acknowledging the complexity involved in the complete revision of the Rules, Member States opted for the approach of restricting the substantive redrafting of the SMR to the areas and Rules most outdated. The following areas were identified “for possible consideration in order to ensure that the Rules reflected recent advances in correctional science and best practices:

- (a) Respect for prisoners’ inherent dignity and value as human beings;
- (b) Medical and health services;
- (c) Disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet;
- (d) Investigation of all deaths in custody, as well as any signs or allegations of torture or inhuman or degrading treatment of prisoners;
- (e) Protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances;
- (f) The right of access to legal representation;
- (g) Complaints and independent inspection;
- (h) The replacement of outdated terminology;
- (i) Training of relevant staff to implement the Standard Minimum Rules.”<sup>3</sup>

Recommendations and resolutions since the beginning of the process have reiterated the consensus that “any changes to the Rules should not lower any of the existing standards but should reflect recent advances in correctional science and best practices.”<sup>4</sup>

<sup>1</sup> UN General Assembly resolution 65/230, “Twelfth United Nations Congress on Crime Prevention and Criminal Justice,” 21 December 2010, 1 April 2011, A/RES/65/230, para. 10, available at: [www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/65/230](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/65/230), accessed 23 March 2014.

<sup>2</sup> Report on the meeting of the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners held in Vienna from 31 January to 2 February 2012, UNODC/CCPCJ/EG.6/2012/1, 16 February 2012, Recommendations 4 and 5, available at: [www.un.org/Docs/journal/asp/ws.asp?m=UNODC/CCPCJ/EG.6/2012/1](http://www.un.org/Docs/journal/asp/ws.asp?m=UNODC/CCPCJ/EG.6/2012/1), accessed 23 March 2014.

<sup>3</sup> *Ibid.*, Recommendation 5.

<sup>4</sup> See UN General Assembly Resolution, ‘Standard Minimum Rules for the Treatment of Prisoners’, UN Doc. A/RES/68/190, 11 February 2013. Available at [www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/68/190](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/190), OP5, accessed 19 January 2015.

## A. Key dates in the revision process

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### (1) 2011: Preparatory expert meetings

Two preparatory meetings were organised by the UN Office on Drugs and Crime (UNODC) in Santo Domingo (August 2011) and in Vienna (October 2011). The outcomes from the two meetings were collated by the Justice Section of the UNODC in a “Background Note.”<sup>5</sup>

The Note included four options for approaching a revision of the Rules, including “restricting the substantive redrafting of the Rules to an essential minimum,” in view of the complexities involved in a complete restructure and substantive redrafting of the Rules. This approach was adopted by the first intergovernmental expert group meeting (IEGM) in Vienna in February 2012.

### (2) February 2012: First intergovernmental expert group meeting, Vienna

The first IEGM was held in Vienna from 31 January to 2 February 2012 and attended by 143 representatives from 52 States.<sup>6</sup> The UNODC Background Note (see above) formed the basis of discussions.

The report of the IEGM<sup>7</sup> submitted to the 21st session of the Commission on Crime Prevention and Criminal Justice (Crime Commission) “recognized the need for some areas of the Standard Minimum Rules to be reviewed,”<sup>8</sup> and expressed the “consensus” of delegates that “any changes to the Rules should not lower any of the existing standards.”<sup>9</sup> It recommended the continuation of its work, and identified “preliminary areas for possible consideration in order to ensure that the Rules reflect recent advances in correctional science and best practices.”<sup>10</sup>

### (3) April 2012: 21<sup>st</sup> session of the Commission on Crime Prevention and Criminal Justice

Based on the recommendations of the IEGM in Vienna, Argentina, Brazil, Italy and Thailand tabled a draft Resolution at the Crime Commission held from 23 to 27 April 2012 in Vienna. The plenary adopted the Resolution “Standard Minimum Rules for the Treatment of Prisoners,”<sup>11</sup> sponsored by Argentina, Brazil, Italy and Thailand and co-sponsored by 12 other States.<sup>12</sup>

It took note and repeated *verbatim* the list of preliminary areas identified by the IEGM for possible consideration (as quoted above) and underscored “that the requirements and needs of prisoners with disabilities should be duly considered, as applicable, in accordance with the Convention on the Rights of Persons with Disabilities.” (OP7)

The Resolution extended the mandate of the expert group, with a view to reporting to the 22<sup>nd</sup> session of the Crime Commission (OP8). Following its adoption by the Crime Commission, the Resolution was adopted by the UN General Assembly on 20 December 2012 (A/RES/67/188).<sup>13</sup>

### (4) December 2012: Second intergovernmental expert group meeting, Buenos Aires

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<sup>5</sup> “Background note: Open-Ended Intergovernmental Expert Group Meeting on the United Nations Standard Minimum Rules for the Treatment of Prisoners, Vienna, 31 January-2 February 2012.” Available at [www.unodc.org/documents/justice-and-prison-reform/AGMs/Background\\_note.pdf](http://www.unodc.org/documents/justice-and-prison-reform/AGMs/Background_note.pdf), accessed 28 May 2012.

<sup>6</sup> For the full list see Report on the meeting of the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners held in Vienna from 31 January to 2 February 2012, UNODC/CCPCJ/EG.6/2012/1, 16 February 2012, para. 9, available at: [www.un.org/Docs/journal/asp/ws.asp?m=UNODC/CCPCJ/EG.6/2012/1](http://www.un.org/Docs/journal/asp/ws.asp?m=UNODC/CCPCJ/EG.6/2012/1), accessed 28 May 28, 2012.

<sup>7</sup> See footnote 6

<sup>8</sup> *Ibid.*, Recommendation 5.

<sup>9</sup> *Ibid.*, Recommendation 4.

<sup>10</sup> See areas identified on page 1.

<sup>11</sup> “Standard Minimum Rules for the Treatment of Prisoners”, UN Doc. E/CN.15/2012/L.4/Rev.2, 24 April 2012. Available at: [www.un.org/Docs/journal/asp/ws.asp?m=E/CN.15/2012/L.4/Rev.2](http://www.un.org/Docs/journal/asp/ws.asp?m=E/CN.15/2012/L.4/Rev.2), accessed 23 March 2014. Hereinafter reference will be made to the resolution’s Operational Paragraphs (OP) within the text.

<sup>12</sup> Albania, Chile, Croatia, Dominican Republic, Ecuador, El Salvador, Germany, Lebanon, Norway, the Philippines, South Africa and Uruguay.

<sup>13</sup> See UN Doc. A/Res/67/188, 12 March 2013. Available at: [www.un.org/Docs/journal/asp/ws.asp?m=A/Res/67/188](http://www.un.org/Docs/journal/asp/ws.asp?m=A/Res/67/188), accessed 21 January 2015, following endorsement endorsed by the UN Economic and Social Council (ECOSOC) on 10 August 2012 (E/RES/2012/13).

The second intergovernmental expert group meeting (IEGM) took place from 11 to 13 December 2012 in Buenos Aires, based on a Working Paper<sup>14</sup> prepared by the UNODC Secretariat which examined in detail the developments in relevant international law and standards.

Fifty contributions had been submitted ahead of the IEGM by 41 Member States and one non-Member State with UN observer status, and a compilation was provided by the UNODC Secretariat.<sup>15</sup> Submissions to the IEGM also included a paper by the UN Subcommittee on the Prevention of Torture,<sup>16</sup> the “Summary of an Expert Meeting at the University of Essex on the Standard Minimum Rules for the Treatment of Prisoners Review,”<sup>17</sup> (so-called ‘Essex paper’) and other submissions by non-governmental organisations.<sup>18</sup>

The meeting was attended by 76 representatives from 28 States. Other participants included the Office of the UN High Commissioner for Human Rights (OHCHR), the UN Subcommittee on the Prevention of Torture, the Council of Europe, representatives of the institutes of the UN crime prevention and criminal justice programme network, independent experts and NGOs with ECOSOC status.

The expert group made substantive progress in identifying the Rules, issues and elements for further consideration (para. 6) and took note of the various contributions including from Member States, the ‘Essex paper’ and NGO submissions.

The expert group submitted its report and recommendations to the Crime Commission held in April 2013<sup>19</sup> and recommended an extension of its mandate, or a referral to a drafting group of Member States (para. 3). It further recommended for the Secretariat to be requested “to prepare an on-going consolidated text of the Rules for discussion at a further meeting to continue the revision process” (para. 5).

#### **(6) April 2013: 22<sup>nd</sup> session of the Commission on Crime Prevention and Criminal Justice**

Based on the recommendations of the IEGM in Buenos Aires, a draft Resolution was submitted by Argentina, Brazil and Thailand to the Crime Commission from 23 to 26 April 2013 in Vienna. The Commission adopted the Resolution “Standard Minimum Rules for the Treatment of Prisoners” on 26 April<sup>20</sup>, (co-)sponsored by 19 Member States. It was adopted by the UN General Assembly on 18 December 2013.<sup>21</sup>

The Resolution extended the mandate of the expert group, with a view to reporting to the 23rd session of the Crime Commission (OP6). It reiterated and specified the areas and Rules for revision as follows:

- (a) Respect for prisoners’ inherent dignity and value as human beings (rules 6, para. 1; 57-59; and 60, para. 1);
- (b) Medical and health services (rules 22–26; 52; 62; and 71, para. 2);
- (c) Disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet (rules 27, 29, 31 and 32);
- (d) Investigations of all deaths in custody, as well as of any signs or allegations of torture or inhuman or degrading treatment or punishment of prisoners (rules 7, proposed 44 bis and proposed 54 bis);
- (e) Protection and special needs of vulnerable groups deprived of their liberty, taking into consideration countries in difficult circumstances (rules 6 and 7);
- (f) The right of access to legal representation (rules 30; 35, para. 1; 37; and 93);

<sup>14</sup> Working paper prepared by the Secretariat, 6 November 2012, UNODC/CCPCJ/EG.6/2012/2, [www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/E-V1257278.pdf](http://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/E-V1257278.pdf), accessed 23 March 2014.

<sup>15</sup> Summaries of replies from Member States to the Notes Verbaux of 8 March 2011 and 11 September 2012, 30 November 2012, UNODC/CCPCJ/EG.6/2012/CRP.1, [www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/IEGM-SMR\\_II\\_CRP\\_prepared\\_by\\_the\\_Secretariat.pdf](http://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/IEGM-SMR_II_CRP_prepared_by_the_Secretariat.pdf), accessed 23 March 2014.

<sup>16</sup> UNODC/CCPCJ/EG.6/2012/INF/3, 26 November 2012, [www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/SPT-INF-3.pdf](http://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/SPT-INF-3.pdf), accessed 23 March 2014.

<sup>17</sup> UNODC/CCPCJ/EG.6/2012/NGO/1, 21 November 2012, available in Arabic, English, French, Spanish and Russian; [www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/NGO-1\\_PRI-ESSEXUNI.pdf](http://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/NGO-1_PRI-ESSEXUNI.pdf), accessed 23 March 2014.

<sup>18</sup> These include additional submissions of the NGOs undersigning this Joint Briefing: Friends World Committee for Consultation and Penal Reform International, Amnesty International, the American Civil Liberties Union; see “Other submissions” at [www.unodc.org/unodc/en/justice-and-prison-reform/expert-group-meetings5.html#\\_ftn3](http://www.unodc.org/unodc/en/justice-and-prison-reform/expert-group-meetings5.html#_ftn3), accessed 23 March 2014.

<sup>19</sup> Report on the meeting of the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners held in Buenos Aires from 11 to 13 December 2012, 27 December 2012, UNODC/CCPCJ/EG.6/2012/4, [www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/E.version.pdf](http://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/E.version.pdf), accessed 23 March 2014.

<sup>20</sup> “Standard Minimum Rules for the Treatment of Prisoners”, UN Doc. E/CN.15/2013/L.22/Rev.1, 25 April 2013. Available at <http://www.un.org/Docs/journal/asp/ws.asp?m=E/CN.15/2013/L.22/Rev.1>, accessed 21 January 2015.

<sup>21</sup> UN General Assembly Resolution, ‘Standard Minimum Rules for the Treatment of Prisoners’, UN Doc. A/RES/68/190, 11 February 2013. Available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/68/190](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/190), accessed 19 January 2015.

- (g) Complaints and independent inspection (rules 36 and 55);
- (h) The replacement of outdated terminology (rules 22-26, 62, 82 and 83 and various others);
- (i) Training of relevant staff to implement the Standard Minimum Rules (rule 47)”<sup>22</sup>

Member States were invited to continue engagement in the revision process, including by submitting to the UNODC Secretariat proposals for revision in the nine areas identified (OP 8). The UNODC Secretariat was requested to prepare a working paper integrating the inputs from Member States, for consideration at the next expert group meeting (OP9).

### **(7) March 2014: Third intergovernmental expert group meeting, Vienna**

On 25-28 March 2014 the third intergovernmental expert group meeting (IEGM) on the revision of the Standard Minimum Rules was held in Vienna. As requested by the Resolution of the Crime Commission,<sup>23</sup> the 33 individual and joint proposals for revision submitted by 39 Member States had been compiled by the UNODC Secretariat in a Working paper.<sup>24</sup>

In addition to Member States various intergovernmental organisations (IGOs) made submissions. The UN Special Rapporteur on Torture, Juan Méndez, had issued a report on the SMR review to the UN General Assembly in August 2013,<sup>25</sup> stating that the revision process is “an opportunity to enhance understanding of the scope and nature of the prohibition against torture and other ill-treatment, (...) and effective measures to prevent them.” Other intergovernmental bodies that made submissions included the UN Subcommittee for the Prevention of Torture, UN Committee against Torture, the World Health Organization, the UN Committee on the Rights of Persons with Disabilities and the Inter-American Commission on Human Rights. Various submissions were also made by NGOs.

Revised text was agreed by the expert group for Rule 6(1) on discrimination grounds, Rule 22(1) on medical and health care services, Rule 27(1) on disciplinary punishment, Rule 30 on the right to access legal representation and Rules 57 to 60 on the purpose of a sentence of imprisonment and rehabilitation. The expert group also agreed on a new provision on searches (Rule 34bis). Some other Rules were discussed, but no final text was agreed on by the experts (Rules 22, 29, 30, 37bis).

At the closing of the meeting 20 delegations from a number of regions reiterated their support for the revision and their commitment to continuing the revision process.

### **(8) May 2014: 23<sup>rd</sup> session of the Commission on Crime Prevention and Criminal Justice**

Following the submission of the third IEGM report,<sup>26</sup> the Crime Commission adopted the Resolution, “Standard Minimum Rules for the Treatment of Prisoners” with the co-sponsorship of 28 Member States,<sup>27</sup> subsequently adopted by the UN General Assembly on 18 December 2014.<sup>28</sup> The Resolution extended the mandate of the expert group, “with the aim of reaching consensus” and requesting it to report to the United Nations Congress on Crime Prevention and Criminal Justice in April 2015 and to the Crime Commission in May 2015 (OP 11). The Resolution takes into account the progressive development of international standards on the treatment of prisoners since 1955 by listing the relevant international instruments in its preamble (pp. 5) and reiterates that “any changes to the Rules should not lower any of the existing standards” (OP 6).

<sup>22</sup> *Ibid.*, OP 5.

<sup>23</sup> See footnotes 22 and 23.

<sup>24</sup> Working paper prepared by the Secretariat for the third Expert Group Meeting, UN Doc. UNODC/CCPCJ/EG.6/2014/CRP.1, 29 November 2013, Available at: [www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/IEGM\\_Brazil\\_Jan\\_2014/UNODCCCPCJEG62014-CRP1-E-V1388548.pdf](http://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/IEGM_Brazil_Jan_2014/UNODCCCPCJEG62014-CRP1-E-V1388548.pdf), accessed 23 March 2014.

<sup>25</sup> Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc A/68/295, 9 August 2013, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N13/422/85/PDF/N1342285.pdf?OpenElement?>, accessed 23 March 2014.

<sup>26</sup> Report of the open-ended intergovernmental Expert Group on the Standard Minimum Rules for the Treatment of Prisoners at its third meeting, UN Doc. E/CN.15/2014/19, 10 April 2014, available in English at [www.unodc.org/documents/commissions/CCPCJ/CCPCJ\\_Sessions/CCPCJ\\_23/E-CN15-2014-19/E-CN15-2014-19\\_E.pdf](http://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_23/E-CN15-2014-19/E-CN15-2014-19_E.pdf), accessed 15 January 2015. Other languages available at [https://www.unodc.org/unodc/en/commissions/CCPCJ/session/23\\_Session\\_2014/CCPCJ\\_23-Index.html](https://www.unodc.org/unodc/en/commissions/CCPCJ/session/23_Session_2014/CCPCJ_23-Index.html), accessed 15 January 2015.

<sup>27</sup> Argentina, Ecuador, Italy, Nicaragua, Norway, Poland, South Africa, Spain, Uruguay, Thailand, Chile, Croatia, Dominican Republic, Mexico and Switzerland, Turkey, Brazil, Germany, Austria, Finland, France, Japan, Guatemala, US, Burkina Faso, El Salvador, Venezuela and Indonesia.

<sup>28</sup> See, ‘Standard Minimum Rules for the Treatment of Prisoners’, UN Doc. A/C.3/69/L.3, 26 September 2014, available at [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/C.3/69/L.3](http://www.un.org/ga/search/view_doc.asp?symbol=A/C.3/69/L.3), accessed 31 March 2015.



For the future deliberations of the expert group the Resolution invited “the Bureau of the third IEGM, with the assistance of the UNODC Secretariat, to prepare a revised consolidated working paper” (OP 12), consisting of the draft revised Rules, reflecting the progress achieved so far, including the recommendations made by the Expert Group at its meetings in Buenos Aires and Vienna and taking into account proposals for revision put forward by Member States. Finally the Crime Commission expressed its gratitude to the government of South Africa for its intention to host the next expert group meeting (OP 13).

#### **(9) March 2015: Fourth intergovernmental expert group meeting, Cape Town**

On 2-5 March 2015 the Government of South Africa hosted the fourth intergovernmental expert group meeting (IEGM) in Cape Town. The meeting was attended by 90 representatives of 41 Member States, by the UN Office of the High Commissioner for Human Rights (OHCHR), the World Health Organization, the European Committee for the Prevention of Torture (CPT), the International Committee of the Red Cross (ICRC) and nine NGOs. Deliberations were guided by the revised consolidated working paper drafted by the Bureau.<sup>29</sup>

At this fourth meeting the experts reached consensus on all Rules identified for revision within the relevant thematic areas.<sup>30</sup> The report recommended that the Crime Commission transmit the revised Rules to the Economic and Social Council (ECOSOC) for approval and subsequent adoption by the General Assembly as the “United Nations Revised Standard Minimum Rules for the Treatment of Prisoners” to be known as the “Mandela Rules”, to “honour the legacy of the late President of South Africa, Mr. Nelson Rolihlahla Mandela, who spent so many years of His life in prison.”<sup>31</sup>

The expert group also recommended to “entrust the Secretariat, under the supervision of the Bureau, with the task of ensuring consistency between the revised rules and the whole set of the Standard Minimum Rules as well as adequacy of relocation of rules identified for relocation” (para. 11).

The report further suggested that the Commission consider recommending that Nelson Mandela International Day be also known as “Mandela Prisoner Rights Day” (para. 10).

#### **(10) April and May 2015: UN Crime Congress (Doha) and Commission on Crime Prevention and Criminal Justice (Vienna)**

Pursuant to the 2014 Resolution the expert group<sup>32</sup> submitted its report for consideration to the 13th UN Crime Congress in Doha, Qatar (12-19 April 2015). A brief report of the outcome of the fourth expert group meeting was presented during Workshop A at the Crime Congress, on the “Role of the United Nations standards and norms in crime prevention and criminal justice in support of effective, fair, humane and accountable criminal justice systems”.

At its 24<sup>th</sup> session, the Commission on Crime Prevention and Criminal Justice considered the submission of the fourth IEGM report. On 22 May 2015, the Commission adopted, by acclamation, the Resolution, “United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)”<sup>33</sup> with the co-sponsorship of 55 Member States.<sup>34</sup>

The Crime Commission adopted the revision proposed by the intergovernmental expert group, as annexed to the resolution (OP5) and approves the recommendation that the Rules should be known as “the Mandela Rules”, to honour the legacy of the late President of South Africa, Nelson Rolihlahla Mandela, ‘who spent 27 years in prison in the course of his struggle for global human rights, equality, democracy and the

<sup>29</sup> Working paper prepared by the bureau of the third meeting of the Expert Group, UN Doc. UNODC/CCPCJ/EG.6/2015/2, 12 January 2015, available at <http://www.unodc.org/unodc/en/justice-and-prison-reform/expert-group-meetings-8.html>, accessed 31 March 2015.

<sup>30</sup> Report on the meeting of the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners held in Cape Town, South Africa, from 2 to 5 March 2015, UN Doc. E/CN.15/2015/17, 9 April 2015, available at <http://www.un.org/Docs/journal/asp/ws.asp?m=E/CN.15/2015/17>, accessed 8 April 2015.

<sup>31</sup> Paragraph 9 of the Report on the fourth meeting of the Expert Group, see link under footnote 30.

<sup>32</sup> See, ‘Standard Minimum Rules for the Treatment of Prisoners’, UN Doc. A/C.3/69/L.3, 26 September 2014, available at [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/C.3/69/L.3](http://www.un.org/ga/search/view_doc.asp?symbol=A/C.3/69/L.3), accessed 31 March 2015.

<sup>33</sup> See advanced unedited report with Resolution ‘Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)’, UN Doc. E/2015/30, E/CN.15/2015/19, available at [http://www.unodc.org/documents/commissions/CCPCJ/CCPCJ\\_Sessions/CCPCJ\\_24/draft\\_reports/E-2015-30-E-CN.15-2015-19/E2015\\_30\\_ECN152015\\_19\\_ADVANCE\\_UNEDITED.pdf](http://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_24/draft_reports/E-2015-30-E-CN.15-2015-19/E2015_30_ECN152015_19_ADVANCE_UNEDITED.pdf), accessed 17 June 2015, p.26.

<sup>34</sup> The Resolution was sponsored by Argentina, Austria, Brazil, Chile, Ecuador, El Salvador, France, Italy, Lebanon, Mexico, Nicaragua, Panama, Paraguay, Poland, South Africa, Thailand, United States, Uruguay. Co-sponsors were the Dominican Republic, Norway, Switzerland, Serbia, Bolivia, Liechtenstein, Japan, Canada and Latvia on behalf of the European Union as a whole.

promotion of a culture of peace' (OP6). The extension of the scope of Nelson Mandela International Day, on 18 July, to a Mandela Prisoner Rights Day was also approved (OP7).

In its Preamble, the Resolution recalled the relevant international UN "soft law" standards relating to human rights and criminal justice which supplement the Mandela Rules, including the Beijing Rules, the Riyadh Guidelines, the Bangkok Rules, the Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems as well as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Relevant regional standards are also referenced.

### **(11) Economic and Social Council (July 2015) and UN General Assembly (December 2015)**

On 21 July 2015 the Economic and Social Council (ECOSOC) adopted the resolution '2015/20. United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)' as put forward by the Crime Commission.<sup>35</sup> The Council recommended the UN General Assembly adopt the same resolution.

On 5 November 2015 the Third Committee of the UN General Assembly adopted Resolution A/C.3/70/L.3: 'United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)'<sup>36</sup> with two technical corrections. The revised Rules are to be known as the 'Nelson Mandela Rules' and furthermore a technical correction was made to OP 7 as regards utilising the Nelson Mandela International Day 'to promote humane conditions of imprisonment, [...]'.<sup>37</sup>

Switzerland made a statement on behalf of 21 Member States<sup>37</sup> following their adoption in the Third Committee recalling that the Rules define the 'minimum conditions to be met in order to treat persons deprived of their liberty humanely, with dignity and in respect of their basic human rights' and thanking all those who have contributed to the adoption of the Rules.

The Resolution is expected to come before the plenary of the General Assembly in December 2015 which will be the final step in the revision process.

## **B. Civil society perspective**

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Throughout the process, a group of NGOs has argued,<sup>38</sup> that while the SMR still hold value today, in the nearly 60 years since their adoption there have been major developments in human rights and criminal justice, resulting in unacceptable flaws and gaps in a modern set of standards. NGOs have argued that this is problematic given that the Rules are often referred to as a primary source of standards relating to treatment in detention. In many countries, the SMR are the only standards available to prisoners regarding their treatment in detention, and in other countries the Rules are used as the "blueprint" for national prison rules. Moreover, the SMR are one of the key frameworks used by national, regional and international monitoring and inspection mechanisms in assessing the treatment of prisoners. It is therefore crucial that this framework is consistent with current standards of human rights and criminal justice.

The NGO group therefore strongly welcomes the adoption of the Mandela Rules by the Crime Commission as a significant improvement, providing greater protection for persons deprived of liberty and recognition of their rights as well as more up-to-date guidance to prison administrations. The group also welcomes the naming of the revised Rules as the "Mandela Rules" in recognition of Nelson Mandela's 27 years in prison where he suffered hunger, forced labor and physical abuse as well as solitary confinement.

<sup>35</sup> 'United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)', UN Doc. E/RES/2015/20, 9 September 2015, available at [http://www.un.org/ga/search/view\\_doc.asp?symbol=E/RES/2015/20](http://www.un.org/ga/search/view_doc.asp?symbol=E/RES/2015/20), accessed 14 October 2015.

<sup>36</sup> 'United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)' UN Doc. A/C.3/70/L.3, 29 September 2015, available in all UN languages at [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/C.3/70/L.3](http://www.un.org/ga/search/view_doc.asp?symbol=A/C.3/70/L.3), accessed 11 November 2015. See also recorded webcast of the Third Committee at <http://webtv.un.org/meetings-events/general-assembly/watch/third-committee-43rd-meeting-70th-general-assembly/4604444791001>, accessed 11 November 2015.

<sup>37</sup> The statement was delivered by Switzerland on behalf of Austria, Belgium, Brazil, Bulgaria, the Czech Republic, Finland, France, Germany, Italy, Hungary, Iceland, Latvia, Lithuania, Lichtenstein, Luxembourg, Norway, Poland, Slovenia, Sweden and Uruguay.

<sup>38</sup> See Joint Statement submitted by Amnesty International (AI), Conectas Direitos Humanos, the Centro Regional de Derechos Humanos y Justicia de Género, the Friends World Committee for Consultation (Quakers) and Penal Reform International (PRI), E/CN.15/2012/NGO/4, 20 April 2012, available at: <http://www.un.org/Docs/journal/asp/ws.asp?m=E/CN.15/2012/NGO/4>, accessed 19 June 2015. See also Joint oral NGO statement to the Crime Commission on 27 April 2012, available at: [www.penalreform.org/resource/joint-ngo-statement-crime-commission-april-2012-review/](http://www.penalreform.org/resource/joint-ngo-statement-crime-commission-april-2012-review/), accessed 19 June 2015; and oral statement to the 25th Session of the UN Human Rights Council submitted by Penal Reform International, American Civil Liberties Union, Amnesty International, Centro de Estudios Legales y Sociales, Conectas, the International Commission of Jurists, and the International Commission of Catholic Prison Pastoral Care, available at: [www.penalreform.org/resource/statement-human-rights-council-march-2014-revision-process](http://www.penalreform.org/resource/statement-human-rights-council-march-2014-revision-process), accessed 19 June 2015.

NGOs have reiterated throughout the process that any changes must not lower existing standards, and that, if the Standard Minimum Rules still hold value today, it is because the drafters of the current Rules were visionary and far-sighted, in times which were no less difficult economically and politically between 1949 and 1955.

NGOs have advocated for a progressive revision of the Rules that take into account the extensive developments in international standards. Not all recommendations put forward (see below regarding the 'Essex Paper') were ultimately accepted and incorporated in the text of the Mandela Rules, and negotiated text was inevitably often a result of compromise. Nevertheless, the group of NGOs welcomes the Mandela Rules and believes that they represent a significant milestone for the advancement of prison conditions and treatment of prisoners worldwide, not least because the revision brings into the Standard Minimum Rules a human rights focus that was previously absent. The group would also like to underline the added value of the reconciliation of criminal justice and human rights standards relating to prison conditions and management in one instrument.

### **'Essex Paper' Recommendations**

Concrete suggestions for a possible revised text of the Rules in the key areas identified at the first IEGM had been discussed by 28 experts at two meetings at the University of Essex, convened on 3 and 4 October 2012 and on 12 and 13 September 2013. The 'Summary of outcomes' (known as the 'Essex Paper') from these meetings of independent experts were submitted to the IEGMs in Buenos Aires<sup>39</sup> and Vienna<sup>40</sup> respectively. The 'Essex Papers' sought to identify current international norms and standards in the areas proposed for revision, to recommend specific changes to the Rules and to elaborate on their rationale.

Further recommendations to the expert group were submitted to the second and third IEGMs from within this group of NGOs by Friends World Committee for Consultation, Penal Reform International, Amnesty International, the American Civil Liberties Union, the Centro de Estudios Legales y Sociales (CELS) and Conectas Direitos Humanos.<sup>41</sup>

End/.

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<sup>39</sup> Report on the meeting of the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners held in Buenos Aires from 11 to 13 December 2012, 27 December 2012, UNODC/CCPCJ/EG.6/2012/4, Para. 32, available at [www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/E\\_version.pdf](http://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/E_version.pdf), accessed 22 March 2014. See also the Resolution adopted by the Economic and Social Council on 25 July 2013, E/RES/2013/35, footnote 19, available at [www.unodc.org/documents/commissions/ECOSOC-Res-2010-20/ECOSOC-Res-Dec-2013/E\\_RES\\_2013\\_35.pdf](http://www.unodc.org/documents/commissions/ECOSOC-Res-2010-20/ECOSOC-Res-Dec-2013/E_RES_2013_35.pdf), accessed 24 March 2014.

<sup>40</sup> Second Report of Essex Expert Group on the Review of the Standard Minimum Rules for the Treatment of Prisoners, Prepared by Penal Reform International / Essex University, UNODC/CCPCJ/EG.6/2014/NGO.7, 20 March 2014, [www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/PRI\\_ESSEX-2nd-paper.pdf](http://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/PRI_ESSEX-2nd-paper.pdf), accessed 23 March 2014.

<sup>41</sup> See "Other submissions" at [www.unodc.org/unodc/en/justice-and-prison-reform/expert-group-meetings5.html#\\_ftn3](http://www.unodc.org/unodc/en/justice-and-prison-reform/expert-group-meetings5.html#_ftn3) for 2<sup>nd</sup> IEGM and [www.unodc.org/unodc/en/justice-and-prison-reform/expert-group-meetings6.html](http://www.unodc.org/unodc/en/justice-and-prison-reform/expert-group-meetings6.html) for 3<sup>rd</sup> IEGM, accessed 23 March 2014.